

## **Preface**

Article 356 of the Constitution of India providing for the imposition of President's rule in the States has, over the years, become an integral part of the political and administrative processes of the country, perhaps even its psyche. Yet no comprehensive study of this remarkable political phenomenon has so far been made, although scattered comments and references are, by no means, entirely absent or unavailable. The present book seeks to fill this gap.

The methodology employed in the present work has mainly consisted of the perusal of published literature and in-depth interviews. The author has made use of the published material relating to President's rule and this is duly cited at the appropriate places in the book. In addition, he interviewed persons who have been directly involved in, or concerned with, or knowledgeable about the President's rule in the States. These have included ex-Governors, ex-advisers, ex-chief secretaries, civil servants working in the secretariat, both Central and State, and in the field. Politicians include ex-Chief Ministers, and Members of Parliament and State Legislatures. Other public figures as well as citizens have also been interviewed. In all, the number of respondents was fifty, the duration of an interview ranging from over one to four hours (in two sittings).

The interviews were arranged under an assurance of absolute confidentiality and, therefore, much as the author would wish, he is precluded from publicly thanking the respondents. But his gratitude to each of them is deep and abiding. Indeed, the present work would not have been completed but for the cooperation, interest, advice and even

encouragement of these persons. The faults, shortcomings and inaccuracies in the book, however, are entirely of the author.

The staffs of the libraries of the Indian Institute of Public Administration, and the Indian Council of World Affairs cheerfully assisted the author in locating the material for the present work, and he thanks them all for their patience and assistance. He should particularly like to thank the ever-enthusiastic library staff of the Indian Council of World Affairs for promptly making available the material he needed in the preparation of this work.

*Basant Panchami*  
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*Delhi*

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# Introduction

India is a Union of States, but the Constitution is more solicitous about the 'Union' than about the States. The latter have been made dependent upon the Union Government in many spheres even in normal times and, much more so, during periods of emergency.

Article 249 of the Indian Constitution authorises the Parliament to enact legislation on any subject on the state list provided the Rajya Sabha, by a two-thirds majority, empowers it to do so. Under Article 312, Parliament is empowered to create new all-India services common to the Centre and the States provided, again, the Rajya Sabha passes a resolution to this effect by a two-thirds majority. This Article was pressed into service in 1963 when the Central Government decided to set up three new all-India services—the Indian Forest Service, the Indian Medical and Health Service and the Indian Service of Engineers—although only the Indian Forest Service has been created. Article 256 places a State Government under an obligation to so exercise its executive power as to ensure compliance with the laws made by Parliament and to this end the Centre is empowered to issue necessary directions to it. Article 257 places the States under the control of the Central Government in certain cases. It says:

- (1) The executive power of every State shall be so exercised as not to impede or prejudice the exercise of the executive power of the Union, and the executive power of the Union shall extend to the giving of such directions to a State as may appear to the Government of India to be

necessary for that purpose. (2) The executive power of the Union shall also extend to the giving of directions to a State as to the construction and maintenance of means of communication declared in the direction to be of national or military importance. . .<sup>1</sup> (3) The executive power of the Union shall also extend to the giving of directions to a State as to the measures to be taken for the protection of the railways within the State.

Further, Articles 200 and 201 empower the Governor—who is the President's appointee—to reserve a bill passed by the State Legislative Assembly for the consideration of the President who has a right to veto it. Finally, an unusual feature of the Indian federalism is that even the very identity of States has not been protected. Article 3 of the Constitution provides that the Parliament, may by law, (a) form a new State, (b) increase the area of any State, (c) diminish the area of any State, (d) alter the name of any State. And, as Article 4 confirms, such a law is not to be construed as an amendment of the Constitution. It is notable that the Central Government has made ample use of the provision contained in Article 3.

The Constitution even provides for the dismissal of a popularly elected ministry in a State by the President. The suspension of the Constitutional provisions relating to a responsible government in the State is by all accounts an extraordinary feature which is not to be found in any other federal constitution except that of Pakistan. This unusual constitutional feature and its invocation constitute the theme of the present work.

### Early History of President's Rule

The Government of India Act, 1935, contained Section 93 which empowered the Governor to dismiss the popularly elected government and take over the administration of the province. Before the enactment of the Government of India Act, 1935, India was unitarily governed and as such a need to provide for the take-over of provincial government did not arise. Section 93 of the Government of India Act, 1935, provided:

Power of Governor to issue Proclamations—(1). If at any time the Governor of a province is satisfied that a situation has arisen in which the government of the province cannot be carried on in accordance with the provisions of this act, he may by proclamation

- (a) declare that his functions shall, to such extent as may be specified in the proclamation, be exercised by him in his discretion;
- (b) assume to himself all or any of the powers vested in or exercisable by any provincial body or authority;

and any such proclamation may contain such incidental and consequential provisions as may appear to him to be necessary or desirable for giving effect to the objects of the proclamation including provisions for suspending in whole or in part the operation of any provisions of this act relating to any provincial body or authority....<sup>1</sup>

It did not take the Central Government long to invoke Section 93 of the Government of India Act, 1935. Shortly after the commencement of the Second World War, the Congress Governments in seven out of the eleven provinces resigned; and except in Assam and North West Frontier Province (NWFP) no other ministries could be formed in them. These were: Bombay, Madras, the United Provinces, Bihar, and the Central Provinces. In these was proclaimed Section 93, and such provinces came to be known as 'Section 93 provinces'. Lord Wavell,<sup>2</sup> the Viceroy of India, was even in favour of introducing this section in Bengal, stricken as it was by famine, but was virtually overruled by the Home Government.<sup>3</sup> Bengal came under it in March 1945 and Punjab in March 1947.

<sup>1</sup>Section 93 of the Government of India Act, 1935.

<sup>2</sup>In this connection Lord Wavell wrote: 'It is against my principles to take over from an Indian Government when they are in difficulties; they will never learn to rule themselves if they are not compelled to face their responsibilities and difficulties. But this Government has been given a good run, and too much is at stake.' Penderel Moon, Ed., *Wavell: The Viceroy's Journal* (London: Oxford University Press, 1973), p. 47.

<sup>3</sup>*Ibid.*, p. 48.

## Constitution-making and President's Rule

History has the uncanny knack of often thrusting on people and institutions roles of which they were at one time outspoken critics. Section 93 of the Constitution of India Act, 1935, had constituted during period of the British Raj, the proverbial mote in nationalist India's eyes, conferring as it did drastic powers on the Governor of the province. When, however, the nationalist leaders, into whose hands the power of governance of India passed in 1947, began framing the Constitution of free India, they took a leaf out of the Government of India Act, 1935, and became votaries of the once-condemned provision. The Draft Constitution, prepared by the Drafting Committee of the Constituent Assembly of India, contained Article 188 which empowered the Governor to proclaim the taking-over of the State Government. Such a proclamation was to have the maximum validity of two weeks. The Article<sup>4</sup> ran as follows:

(1) If at any time the Governor of a State is satisfied that a grave emergency has arisen which threatens the peace and tranquillity of the State and that it is not possible to carry on the Government of the State in accordance with the provisions of this Constitution, he may by proclamation, declare that his functions shall, to such extent as may be specified in the proclamation, be exercised by him in his discretion and any such proclamation may contain such incidental and consequential provisions as may appear to him necessary or desirable for giving effect to the objects of the proclamation including provisions for suspending in whole or in part the operation of any provisions of this Constitution relating to any body or authority in the State:

Provided that nothing in this clause shall authorise the Governor to suspend, either in whole or in part, the operation of any provision of this Constitution relating to High Courts.

<sup>4</sup>*The Draft Constitution of India* (New Delhi: The Constituent Assembly of India), 1949, p. 85.

(2) The proclamation shall be forthwith communicated by the Governor to the President who may, thereupon, either revoke the proclamation or take such action as he considers appropriate in exercise of the emergency powers vested in him under Article 278 of this Constitution.

(3) A proclamation under this article shall cease to operate at the expiration of two weeks unless revoked earlier by the Governor or by the President by public notification.

(4) The functions of the Governor under this article shall be exercised by him in his discretion.

Moreover, Article 278 in the Draft Constitution sought to bring the President into the picture. The Governor was under a constitutional obligation to transmit his proclamation to the President who, if satisfied that the Government of the State could not be conducted in accordance with the provision of the Constitution, could take over in his hands the functions of the State Government and declare that 'the powers of the legislature of the State shall be exercisable only by Parliament'.

Such was the original provision made in the Draft Constitution. It, however, underwent three important changes in the course of the debates in the Constituent Assembly. Article 188 was completely deleted, thereby empowering the President alone to assume the functions of the State Government in the event of a breakdown of the constitutional machinery there. Vallabhbhai Patel observed:

The Committee (to report on the Principles of a Model Provincial Constitution) in settling this question, intended to convey that the Governor shall have only the authority to report to the Union President about the grave menace to the peace of the province. It was not their intention that this power or authority is to be exercised by the Governor which may perhaps bring a conflict between the ministry and the Governor. The Governor having no control over the (public) services, the authority of administration entirely vests in the ministry and, therefore, there was considerable difference of opinion on this question on account of the prevailing conditions in the



country, . . . some thought that it would be advisable under the present peculiar unsettled conditions in the country to give some limited powers to the Governor. . . eventually the Committee came to the conclusion that it would be unworkable, that it would create deadlocks and, therefore, the proper course would be to limit his powers to the extent of authorising him to report to the President of the Union.<sup>8</sup>

The Constituent Assembly discovered the two-phase intervention in the State sphere, first by the Governor on his own and later by the President to be plainly anomalous? First, if the President was ultimately to swing himself into the State field it would be more logical that he came into it at the very beginning. Second, the President may issue the proclamation of take-over on the basis of a report by the Governor or on his own initiative. This marks a departure from the earlier stipulation under which the President could not act except on a report by the Governor duly preceded by the Governor's proclamation under Article 188. The original provision of the Governor's report being obligatory for the invocation of the President's rule was made flexible, or rather optional. If the Centre is responsible for protecting the constitutional machinery in the States, as is the acknowledged position under the Constitution, why make the Presidential action absolutely dependent on the Governor's report? Finally, the functions of the State legislature were, according to the provisions of the Draft Constitution, to be assumed by the Parliament which was not explicitly authorised to confer such powers on the President. No such bar on the part of Parliament operates now.

Though an extraordinary feature in a federal constitution, the provision seeking dismissal of State Government by Presidential action gained acceptance in the Constituent Assembly with surprising ease. In a way, this was a reflection of the times. The nation was at this time passing through a critical period in her history in the wake of partition, communal riots and other disturbances. The Constituent Assembly itself, which originally contemplated a rather weak federal government,

<sup>8</sup>*Constituent Assembly Debates*, Vol. IV, 15 July 1974, p. 580.

ultimately became the champion of a powerful centre. Article 278 (which later became Article 356) was but one manifestation of the prevalent national sentiments. In addition to B.R. Ambedkar, the Law Minister, fourteen members participated in the debate. Among them, H.V. Kamath, Shibban Lal Saksena and P.S. Deshmukh had misgivings about this provision but nonetheless did not press hard their opposition to it. It was Hriday Nath Kunzru who strongly protested against the acceptance of this article. He observed:

If the Central Government and Parliament are given the power that Articles 277, 278 and 278A read together propose to confer on them, there is a serious danger that whenever there is dissatisfaction in a province with its Government, appeals will be made to the Central Government to come to its rescue. The provincial electors will be able to throw their responsibility on the shoulders of the Central Government. Is it right that such a tendency should be encouraged? Responsible government is the most difficult form of government. It requires patience, and it requires the courage to take risks. If we have neither the patience nor the courage that is needed, our constitution will virtually be still-born. I think, therefore, Sir, that the articles that we are discussing are not needed.\*

Notwithstanding the protest of H.N. Kunzru, Article 278 (which on renumbering became Article 356) was endorsed by the Constituent Assembly. Its provisions are far-reaching in their intent and implications. Under the Constitution, the Central Government has assumed the ultimate responsibility of assuring constitutional government in the State. If the President (which in practice means the Central Cabinet) is satisfied on the report of a Governor 'or otherwise' that there has occurred a constitutional breakdown in a State, he may assume any or all the functions of the State government and declare the powers of the State Legislature exercisable by or under the authority of the Parliament. However, he cannot assume any of the functions of the High Court or modify any provision of the Constitution

\* *Constituent Assembly Debates*, Vol. IX, 3 August 1949, pp. 154-6.

relating to the High Courts. Finally, the duration of President's rule in a State has the outer limit of three continuous years.

Another significant Article is 357 which describes the manner of exercise of the legislative powers. During the President's rule in a State the powers of its legislature become exercisable by or under the authority of Parliament. The latter may confer on the President the power of the State Legislature to make laws and even authorise him to delegate this power to any other authority. The President may also authorise, when the Lok Sabha is not in session, expenditure from the Consolidated Fund of the State pending its parliamentary sanction.

Laws enacted by Parliament or President or other authority which fall within the field of the legislative powers of the State cease to have effect on the expiration of a period of one year after the proclamation has ceased to operate unless they have been repealed earlier or re-enacted by the State Legislature.

In short, the article which finally emerged out of the Constituent Assembly reads as follows:

(1) If the President, on receipt of a report from the Governor or Rajpramukh of a State or otherwise, is satisfied that a situation has arisen in which the Government of the State cannot be carried on in accordance with the provisions of this Constitution, the President may by proclamation....

- (a) assume to himself all or any of the functions of the Government of the State and all or any of the powers vested in or exercisable by the Governor or Rajpramukh, as the case may be, or any body or authority in the State other than the legislature of the State;
- (b) declare that the powers of the legislature of the State shall be exercisable by or under the authority of Parliament;
- (c) make such incidental and consequential provisions as appear to the President to be necessary or desirable for giving effect to the objects of the proclamation, including provisions for suspending in whole or in part the operation of any provisions of this Constitution relating to any body or authority in the State:

Provided that nothing in this clause shall authorise the President to assume to himself any of the powers vested in or exercisable by a High Court, or to suspend in whole or in part the operation of any provision of this Constitution relating to High Courts.

(2) Any such proclamation may be revoked or varied by a subsequent proclamation.

(3) Every proclamation under this article shall be laid before each House of Parliament and shall, except where it is a proclamation revoking a previous proclamation, cease to operate at the expiration of that period it has been approved by resolutions of both Houses of Parliament:

Provided that if any such proclamation (not being a proclamation revoking a previous proclamation) is issued at a time when the House of the People is dissolved or the dissolution of the House of the People takes place during the period of two months referred to in this clause, and if a resolution approving the Proclamation has been passed by the Council of States, but no resolution with respect to such proclamation has been passed by the House of the People before the expiration of that period, the proclamation shall cease to operate at the expiration of thirty days from the date on which the House of the People first sits after its reconstitution unless before the expiration of the said period of thirty days a resolution approving the proclamation has been also passed by the House of the People.

(4) A proclamation so approved shall, unless revoked, cease to operate on the expiration of a period of six months from the date of the passing of the second of the resolutions approving the proclamation under clause (3):

Provided that if and so often as a resolution approving the continuance in force of such a proclamation is passed by both houses of Parliament, the proclamation shall, unless revoked, continue in force for a further period of six months from the date on which under this clause it would otherwise have ceased to operate, but no such proclamation shall in any case remain in force for more than three years:

Provided further that if the dissolution of the House of the People takes place during any such period of six months and a resolution approving the continuance in force of such proclamation has been passed by the Council of States, but no

resolution with respect to the continuance in force of such proclamation has been passed by the House of the People during the said period, the proclamation shall cease to operate at the expiration of thirty days from the date on which the House of the People first sits after its reconstitution unless before the expiration of the said period of thirty days a resolution approving the continuance in force of the proclamation has been also passed by the House of the People.

One must take note of two points, including one which is purely terminological, relating to this article. Article 356 did not apply to Jammu-Kashmir till 20 December 1964, although it is one of the States of the Indian Union. Secondly, the words 'House of the People' and 'Council of States' have since been substituted by 'Lok Sabha' and 'Rajya Sabha' respectively and the words 'Governor or Rajpramukh, as the case may be' have since been deleted, having become meaningless in the course of time.

### President's Rule and Central Government

It is to be noted that the Constitution does not provide for President's rule at the Centre. The President is always a constitutional head and even when a ministry falls he has to go on inviting political parties to form the government or to order a mid-term poll. The reason for not incorporating provision for Presidential take-over of the Central Government cannot be that instability in a State should cause the country wider concern than instability at the Centre. This is truly a recognition of the Constitution's faith in the political parties of the land and ultimately in the electorate.

### Dissolution of Assembly

The dissolution of a State Assembly in India may be effected in two ways. The Governor himself may dissolve the Assembly—a power which he enjoys in the Constitution.<sup>7</sup> This

<sup>7</sup>Article 174 of the Constitution says, '(i) The Governor shall from

right which he invokes on the advice of the Chief Minister has been exercised under two circumstances. The Governor, as a rule, dissolves the Assembly when in the normal process fresh elections to it are to be held: and in all such cases the popular ministry remains in power—though on a somewhat care-taker basis. Also, he has terminated the life of the Assembly on a few occasions of legislative turmoil (Punjab under Pavate, West Bengal under Dhavan, Kerala under Vishwanathan), again the ministry continuing in office. The second set of circumstances has, in practice, been the prelude to the President's rule in the State. What is more, in such situations President's rule may even turn out to be a constitutional inevitability. If the Assembly did not pass the budget before its dissolution, State administration may come to a complete standstill unless the budget is passed by the Parliament<sup>8</sup> which derives this necessary authority only when Article 356 has been imposed on the State. Under either circumstance the Governor's dissolution of the Assembly does not dispense away with the Council of Ministers; the latter institution is dispensed away with only when Article 356 is unfolded. The truly distinguishing feature of President's rule is the absence of a Council of Ministers. It needs to be noted that while the Legislative Assembly may be dissolved or suspended under President's rule, the upper house, wherever it exists, remains intact.

### Union Territories and President's Rule

*Although the Union of India consists of States and Union Territories, attention has so far remained focused on the former. The union territories number nine out of which Goa, Daman and Diu, Pondicherry, Mizoram and Arunachal Pradesh*

time to time summon the house or each house of the legislature of the State to meet at such time and place as he thinks fit, but six months shall not intervene between its last sitting in one session and the date appointed for its first sitting in the next session. (2) The Governor may from time to time (a) prorogue the house or either house; (b) dissolve the Legislative Assembly.'

<sup>8</sup>In case Parliament is not in session the President may authorise expenditure from the Consolidated Fund of the State pending its sanction by Parliament. Vide Article 357 (c) of the Constitution.

have each an Assembly and a Council of Ministers with the Chief Minister at the head to aid and advise the head of the territory concerned 'in the exercise of his functions in relation to matters with respect to which the Legislative Assembly of the Union Territory has power to make laws except in so far as he is required by or under this act to act in his discretion or by or under any law to exercise any judicial or quasi-judicial functions.'<sup>9</sup>

In other words, local autonomy and self-government enjoyable by each is limited in extent. Restricted as it is, it is not undestructable either. The local democracy in a Union Territory rests absolutely on the sufferance of the Centre. Section 51 of the Government of Union Territories Act, 1963, clearly provides:

If the President, on receipt of a report from the administrator of a Union Territory or otherwise, is satisfied

- (a) that a situation has arisen in which the administration of a Union Territory cannot be carried on in accordance with the provisions of this act or
- (b) That for the proper administration of the Union Territory it is necessary or expedient so to do, the President may, by order, suspend the operation of all or any of the provisions of this act for such period as he thinks fit and make such incidental and consequential provisions as may appear to him to be necessary or expedient for administering the Union Territory in accordance with the provisions of Article 239.<sup>10</sup>

The Union Territories are designed to be centrally administered and the enforcement of Section 51 does not bring about any basic change in the administrative structure and its functioning in a Union Territory. Hence it is not proposed to discuss, in the present work, President's rule in the Union Territories.

<sup>9</sup>Section 44 of the Government of Union Territories Act, 1963.

<sup>10</sup>Section 51 of the Government of Union Territories Act, 1963.

## Pakistan and President's Rule

Pakistan is the only other federal country in the modern world which, in its Constitution, provides for the take-over, by the Federal Government, of the Governments of the constituent States. The first Constitution of the Islamic Republic of Pakistan authorised, in its Article 192, the proclamation of assumption of power by the Federation in case of failure of constitutional machinery in the Provinces. Nor did this Article remain unused. Pakistan invoked Article 192 in the case of West Pakistan, former East Pakistan and Sindh. The present Constitution, the third one since the emergence of Pakistan and in enforcement since 1973, makes a similar provision in Article 234.<sup>11</sup> This Article, which bears a striking resemblance with Article 356 of the Indian Constitution, can be summarised as follows:

If the President is satisfied that the constitutional machinery has broken down in a province, he can assume all the executive powers and delegate the legislative powers to the Parliament. However, he cannot assume the powers of the High Court or change any provisions regarding the High Court. The proclamation issued under this Article will have to be passed by a resolution of the Parliament before two months and can be extended by two months at a time to a maximum of six months.

If the National Assembly stands dissolved at the time of the proclamation, the proclamation shall continue to be in force for a period of three months, but if a general election is not held before that period, it shall cease to be in force unless it has earlier been approved by a resolution of the Senate.

Parliament can make laws or empower the President to do so on matters which fall within the legislative competence of the Provincial Assembly. When the Parliament is not in session, the President can authorize spending from the Provincial Consolidated Fund, pending the sanction of the Parliament. The laws made by the President or the Parliament under the proclamation will cease to be in force six months after the proclamation under this Article has ceased to be in force.

<sup>11</sup>*Constitution of the Islamic Republic of Pakistan*, Article 234, Karachi: Manager of Publications, 1973.



## *An Over-view of President's Rule*

Of the three types of emergency enumerated in the Indian Constitution, the most widely experienced one has been that caused by the failure of constitutional government in the States.<sup>1</sup> The provision relating to it, namely Article 356, has been invoked to take over State Governments on as many as thirty-six occasions since the promulgation of the Constitution.<sup>2</sup> Except Assam, Himachal Pradesh (a Union Territory elevated to full statehood in 1971), Maharashtra and Madhya Pradesh, all States in India have undergone President's rule at one time or the other. The State of Jammu and Kashmir, the only State in the Indian Union having its separate Constitution, has been constitutionally protected from the application of Article 356.

President's rule has been generally introduced without prior warnings to the States to set right their affairs. Article 356 has in fact visited them very much like the proverbial bolt from the blue...without giving them an opportunity or notice of correcting their alleged shortcomings. This is contrary to the intention of the framers of the Constitution. B.R. Ambedkar,

<sup>1</sup>The emergency relating to war or external aggression or internal disturbance has been declared thrice in the country while the provision relating to financial emergency has so far remained uninvoked. The former was first declared in 1962 when China attacked India; it was revoked in 1968, long after the war with that country (and armed conflict with Pakistan in 1965) had ended. It was again imposed in 1971 at the time of war with Pakistan. While this emergency was continuing, a national state of emergency was declared on 26 June 1975.

<sup>2</sup>If the President's rule in the Union Territories, is also taken into account the number of such events would exceed forty-five. The present work, however, does not study President's rule in the Union Territories.

the Chairman of the Drafting Committee, told the Constituent Assembly that before Article 356 is brought into operation 'the President... will take proper precautions before actually suspending the administration of the provinces. I hope the first thing he will do would be to issue a mere warning to a province that has erred that things were not happening in the way in which they were intended to happen in the Constitution. If that warning fails, the second thing for him to do will be to order an election allowing the people of the province to settle matters by themselves. It is only when these two remedies fail that he would resort to this article.... I do not think we could then say that these articles were imported in vain or that the President has acted wantonly.'<sup>3</sup>

A word about the actual duration of President's rule is also called for. Out of the thirty-six cases, President's rule has lasted for two months or less on five occasions, for six months or less on fifteen occasions, for any duration between six and twelve months ten times, and the duration has exceeded one year in eight instances. By keeping the validity of parliamentary approval of President's rule to a period of six months the Constituent Assembly considered that return of popular government should be possible within this period. As can be seen in a majority of cases this did not happen.

### Modality of President's Rule

The process of heralding President's rule is formally set into motion with the Governor transmitting his report to the President in which he makes a definite recommendation for the application of Article 356 of the Constitution to the State concerned. In this matter the Governor does not act on the aid and advice of his Council of Ministers nor is he answerable to any court of law on whether his report is *mala fide* or based on any extraneous facts. But the President, to whom the report is addressed, takes action on it on the advice of his Council of Ministers. In fact, the President's rule can be imposed only on the advice of his Council of Ministers and in

<sup>3</sup>Constituent Assembly Debates, Vol. IX, col. 177.

this way, the President's satisfaction becomes the Council of Ministers' satisfaction. Also, the source of information on which the President (i.e., the Council of Ministers) bases his satisfaction has been kept very wide indeed. The use of the word 'otherwise' in Article 356 is full of import for it does not in any way seek to restrict or limit the channel of information on which he reaches his satisfaction. The information of the failure of the constitutional machinery might have, for instance, emanated from any one of Centre's own sources. Also, 'the very amplitude and undefined character of the information on which the President is to be satisfied indicates that the satisfaction and the source thereof are not justiciable'.<sup>4</sup>

Although constitutionally the Governor's report is not obligatory for the promulgation of President's rule in a State, convention has made it so. The Governor's report is as a rule now placed on the table of each House of Parliament along with the President's proclamation. Being above party politics, the Governor is looked upon to give to the President an objective assessment of the political situation in his State and under a convention his recommendation is to prevail upon the Centre in the matter of President's rule. Some of these Reports of the Governors are reproduced in the Appendixes.

As observed earlier, the President acts on the advice of the Council of Ministers and therefore the Governor's report is as a rule discussed in the Cabinet or in the Political Affairs Committee (a Sub-Committee of the Cabinet) and later in the Cabinet. The Cabinet's decision is communicated to the President who then signs the Proclamation announcing the take-over of State Administration. This very moment the Council of Ministers in that State ceases to exist, and the Governor becomes the Head of Government in the State.

If the President's rule is intended for a duration not exceeding two months Parliament may not come into the picture; otherwise its ratification of President's rule is constitutionally mandatory. As Parliament's approval validates President's rule only for six months, its prior consent is essential for

<sup>4</sup>Judgment of the Orissa High Court on the application of Article 356 in Orissa in the case *Bhayananda Patnaik and 73 others Vs President of India and others* reported in *The Journal of the Society for Study of State Governments*, Vol VI, No. 4 (Oct-Dec. 1973), pp. 249-84.

GOVERNMENT REVOKING  
THE RULE

RECEIPT  
PRESIDENT

CABINET  
DECISION

CABINET  
DECISION

RECEIPT BY  
PRESIDENT

PRESIDENT  
PROCLAIM

GOVERNOR RECOMMEN-  
DING REVOKING  
OF THE RULE

MINISTRY AND  
ASSEMBLY

ENACTMENT OF THE  
DELEGATING  
POWERS ACT

MINISTRY  
ASSEMBLY

(SIMULTANEOUS)

SETTING UP OF CONSULTA-  
TIVE COMMITTEE

MINISTRY  
ASSEMBLY

SPEAKER

ISSUING OF  
STATE BUDGET

every extension of President's rule in that State. If this rule is to last longer than two months the Executive ordinarily approaches the Parliament to pass an act delegating its legislative power to the President and providing for the setting up of a Consultative Committee (of Members of Parliament) on State Legislation to give its opinions on the bills coming before it. The decision about this enactment is made in the light of the legislative work to be completed for the State under President's rule. The Parliament has also to pass the budget for the State (if that budget has not already been passed by the State Legislature).

The process of termination of President's rule is formally initiated by the Governor who reports to the President making such a recommendation. A typical Report of this nature is reproduced in Appendix III. The Report is sent to the Prime Minister who then convenes a meeting of the Cabinet to discuss it. But the Cabinet's decision on this report is a necessary constitutional formality. On the advice of the Cabinet the President revokes the application of Article 356 in the State concerned. The moment this is done a popular ministry gets inducted into office. Figure 1 describes the cycle of Presidents rule.

The frequency of President's rule was low before the fourth general election held in 1967 but since then it has increased suddenly and sharply. Several of the States, of course, have had repeated spells of this rule. Kerala had (technically) 5 spells, Punjab 4, Uttar Pradesh 4, Orissa 3, Bihar 3, Gujarat 3, and West Bengal 3. The total duration of President's rule has been the longest in Kerala, being 1,505 days, followed by West Bengal (1,013 days), Punjab (878 days), Gujarat (807, the present President's rule not included), Uttar Pradesh (595 days), Orissa (568 days), Bihar (545 days), Andhra Pradesh (454 days), Manipur (400 days), Mysore (359 days), Haryana (180 days), Tripura (59 days) and Rajasthan (44 days).<sup>3</sup>

<sup>3</sup>Nagaland has already completed one year under Article 356 and is still under it.

### Frequency of President's Rule

The following table indicates the frequency of President's rule in the various States.

<i>State</i>	<i>Date of Proclamation</i>	<i>Date of Revocation</i>
Kerala	(i) 23 March 1956	1 November 1956
	(ii) 1 November 1956	5 April 1957
	(iii) 31 July 1959	22 February 1960
	(iv) 10 September 1964	24 March 1965
	(v) 4 August 1970	3 October 1970
Punjab	(i) 20 June 1951	17 April 1952
	(ii) 5 July 1966	1 November 1966
	(iii) 23 August 1968	17 February 1969
	(iv) 15 June 1971	17 March 1972
Uttar Pradesh	(i) 25 February 1968	25 February 1969
	(ii) 1 October 1970	18 October 1970
	(iii) 13 June 1973	18 November 1973
	(iv) 30 November 1975	21 January 1976
Bihar	(i) 29 June 1968	26 February 1969
	(ii) 4 July 1969	16 February 1970
	(iii) 9 January 1972	19 March 1972
Gujarat	(i) 13 May 1971	17 March 1972
	(ii) 9 February 1974	18 June 1975
	(iii) 12 March 1976	24 December 1976
Orissa	(i) 25 February 1961	23 June 1961
	(ii) 11 January 1971	3 April 1971
	(iii) 3 March 1973	6 March 1974
West Bengal	(i) 20 February 1968	26 February 1969
	(ii) 19 March 1970	12 April 1971
	(iii) 29 June 1971	20 March 1972
Andhra Pradesh	(i) 15 November 1954	23 March 1955
	(ii) 18 January 1973	10 December 1973
Manipur	(i) 21 January 1972	20 March 1972
	(ii) 28 March 1973	4 March 1974

Haryana	(i) 21 November 1967	21 May 1968
Mysore	(i) 27 March 1971	17 March 1972
Nagaland	(i) 22 March 1975	continuing
Pepsu	(i) 4 March 1953	7 March 1954
Rajasthan	(i) 31 March 1967	21 May 1968
Tamilnadu	(i) 31 January 1976	continuing
Tripura	(i) 21 January 1972	20 March 1972

The total period of President's rule in the States exceeds twenty years. The significance of this period becomes amply obvious if one but recalls that the Constitution itself is not more than twenty-six years old. The following table describes the chronology of President's rule in the States.

<i>Name of State</i>	<i>Date of Proclamation</i>	<i>Date of Revocation</i>	<i>Period of Presidential Rule (in days)</i>
Punjab	20 June 1951	17 April 1952	302
Pepsu	4 March 1953	17 March 1954	378
Andhra Pradesh	15 November 1954	23 March 1955	128
Travancore-Cochin (named Kerala in November 1956)	23 March 1956	5 April 1957	378
Kerala	31 July 1959	22 February 1960	206
Orissa	25 February 1961	23 June 1961	118
Kerala	10 September 1964	24 March 1965	145
Kerala	24 March	6 March 1967	712
Punjab	5 July 1966	1 November 1966	118
Rajasthan	13 March 1967	26 April 1967	44
Haryana	21 November 1967	21 May 1968	181
West Bengal	20 February 1968	25 February 1969	371

one is not sure if they became wiser after a short-lived but intensive experiment in coalitional government-making in the country.

The second phase may be said to have come to a formal end in 1971 when in March of that year the election to the Lok Sabha was held. Earlier in February 1969 mid-term assembly elections were held in as many as four States—Punjab, Uttar Pradesh, Bihar and West Bengal—but its verdict broadly followed the earlier pattern set by the 1967 poll. The United Front gained absolute majority in West Bengal and formed the Government. The Akali Dal emerged as the single largest party in Punjab and formed the coalition government its other partner being the Jana Sangh. In Uttar Pradesh the Congress gained an almost absolute majority and formed the ministry. This party was the single largest one in Bihar and formed a coalition government. In December 1969, within a few months of the mini-general election, occurred the historic split in the Congress Party as a consequence of which the ruling Congress lost its majority in the Lok Sabha but continued in power with the support of the Communist Party of India (CPI) and Dravid Munnetra Kazhagam (DMK). At the end of 1970 the Lok Sabha was abruptly dissolved and parliamentary election was held in March 1971. This election signified the passing away of the second phase of President's rule in India. The electoral verdict was the clearest ever in the annals of Indian polling. The Congress obtained an embarrassingly huge majority—352 of the 518 seats—in the Lok Sabha. Most other parties limped back to Parliament with greatly depleted numbers, their position being as follows: Congress (O) 16 seats (from 65 in the previous Lok Sabha), Jana Sangh, 22 (from 35), Swatantra Party 8 (from 44), and Samyukta Socialist Party (SSP) 3 (from 23). The CPI retained its 23 seats while the Communist Party of India Marxist (CPI-M) increased its strength from 19 to 25 seats. In 1971 the Lok Sabha election was for the first time de-linked from the State Assembly elections but West Bengal, Orissa and Tamilnadu went to the poll at the same time. The Congress success at the State level was much less flattering. Nevertheless, the landslide victory of the Congress in the Lok Sabha election totally obscured the significance of Assembly results and instead indicated the turn of the tide in favour of the Congress and,



particularly Indira Gandhi, the Prime Minister and the Leader of the Party. The Congress success at the polls was due to the unprecedented popularity which Indira Gandhi personally commanded all over the country. The period of political flux came to an end.

The third phase begins in 1971 and is characterized, more than anything else, by an emergence of a substantially different framework within which the concept of President's rule discovered for itself. The defeat of Pakistan and the liberation of Bangladesh by the end of 1971 tremendously raised Indira Gandhi's political stature nationally as well as internationally. When, therefore, in March 1972 the 16 States<sup>1</sup> of the Indian Union went to the polls to elect their Assemblies, she was easily the greatest mobiliser of votes for the Congress, and the electoral tide continued running in its favour. Of the total number of 2,757 seats in the Assemblies, the Congress captured 1,936.

Before one moves further one would like to add that nine instances of President's rule occurred in the first phase lasting sixteen years, eleven during 1967-71 and sixteen in the final phase.

## ***President's Rule in the States: 1950-66***

### **Punjab**

The State in which Article 356 of the Constitution was invoked for the first time was the State of Punjab, and this happened within one and a half years of the inauguration of the present Constitution, much before the first general election under the Constitution. Being the first case of the President's rule in a State, it deserves a somewhat detailed analysis.

The Congress Party in Punjab, which was then the ruling party in the State, was deeply faction-ridden. Although Gopi Chand Bhargava was the Chief Minister and leader of the Congress Legislative Party, there was within the party a faction led jointly by Bhimsen Sachhar and Pratap Singh Kairon. The Congress Parliamentary Board in an attempt to resolve the political tangle directed Bhargava in the summer of 1951 to make his Cabinet composite and broad-based. Bhargava resisted such a move, which was interpreted by the central leadership of the party as a defiance of the Congress Parliamentary Board. It is reported that an angry Jawaharlal Nehru even tendered his resignation from the Board to protest against Bhargava's unwillingness to abide by the Board's directive.<sup>1</sup> Quite understandably, the Board could ill-afford to let Nehru go, and quickly responded to Nehru's protest by formally asking Bhargava on 11 June 1951 to resign forthwith from the Chief Ministership. Meanwhile the central leadership of the Congress Party made up its mind to seek President's rule

<sup>1</sup>*The Statesman*, 13 June 1951.

in Punjab in view of the factions within its state level organization and to form a government only after the general election. Secure behind the unflinching support of majority of the Congress legislators of Punjab, Bhargava even toyed with the idea of defying the central directive by resigning from the Congress along with his group of legislators to form a non-Congress government in the State. However, ultimately Bhargava veered round the directive of the Board and on 16 June 1951 handed in his resignation to the Governor, Chandu Lal Trivedi. The five-line letter of his resignation began with, 'Under instructions from the Central Parliamentary Board...'. In reply to the Governor's question, he expressed his inability as leader of the Congress Assembly Party, again 'under instructions from the Central Parliamentary Board', to form a new ministry.<sup>2</sup> Even while bowing out of office, Bhargava observed: 'As it is, the Parliamentary Board's decision to give the administration of Punjab into the hands of the Governor is on grounds of principles of democracy far from desirable...rule by the Governor of Punjab is a retrograde step which the elected representatives of the people can never agree to and can never be a substitute to a rule by the duly elected representatives...'<sup>3</sup>

The Governor sent his report to the President on 18 June 1951 recommending the imposition of President's rule in Punjab. It was, however, not until 20 June 1951 that the State could be formally brought under President's rule. The Presidential proclamation read:

Where as I, Rajendra Prasad, President of India, have received a report from the Governor of the State of Punjab and I am satisfied that a situation has arisen in which the government of that State cannot be carried on in accordance with the provisions of the Constitution of India...

Now, therefore, in exercise of the powers conferred by Article 356 of the Constitution and of all other powers enabling me in that behalf, I hereby

<sup>2</sup>*The Statesman*, 17 June 1951.

<sup>3</sup>*Ibid.*

- (a) assume to myself as President of India all functions of the government of the said State and all powers vested in or exercisable by the Governor of that State;
- (b) declare that the powers of the legislature of the said State shall be exercisable by or under the authority of Parliament. . . .<sup>4</sup>

The wording of this proclamation is significant. Apparently, the President based his decision entirely on 'a report from the Governor', making no mention of 'and other information received by me', a phraseology which has been invariably employed in all subsequent Presidential proclamations.

The Presidential proclamation was simultaneously followed by an order, which said:

In pursuance of sub-clause (1) of clause (c) of the proclamation issued on this, the 20th day of June 1951, by the President under Article 356 of the Constitution of India, the President is pleased to direct that all the functions of the government of the State of Punjab and all the powers vested in or exercisable by the Governor of that state under the Constitution or under any law in force in that State, which have been assumed by the President by virtue of clause (a) of the said proclamation, shall subject to superintendence, direction and control of the President, be exercised by the Governor of the said State.<sup>5</sup>

One cannot miss the significance of such an event. Gopichand Bhargava, the Chief Minister, was not only the leader of the Congress legislature party but commanded the allegiance of the majority in his party. The constitutional machinery in Punjab did not face any threat, immediate or potential and President's rule was sought simply to rescue the state level party from its internal factional politics.

<sup>4</sup>*The Statesman*, 21 June 1951.

<sup>5</sup>*Ibid.*

was made in the Parliament itself, a privilege which has remained denied to Advisers appointed subsequently.

Soon after taking over charge of his duties, P.S. Rao addressed a press conference in which he explained the range and nature of his task. 'The rule of the President, which is of a temporary character, is designed to put down violence and lawlessness at all costs, to reinstate the rule of law, to discourage communalism, to eradicate corruption in the public services and generally to restore the decencies of public life in the State.'<sup>15</sup> He further observed that the Government was to be carried on in the name of the Rajpramukh during President's rule in the State. 'But the Rajpramukh would act in all matters on the advice of the adviser',<sup>16</sup> he emphasized. He went on to say that the law and order situation in the State was bound up with agrarian reforms. The legislative measures introduced in the Pepsu Assembly which had lapsed with the President's proclamation were to be duly enacted by the President when the Parliament passed the enabling act vesting in him the law-making powers provided under the Constitution. In May 1953 the Parliament passed the Pepsu Legislature (Delegation of Powers) Act as well as the budget for the State. In September 1953 the Parliament extended President's rule in the State for another term of six months as the delimitation of constituencies and the preparation of electoral rolls had not been completed.

### Andhra

Next came Andhra's turn, when in November 1954 the Ministry led by the veteran T. Prakasam fell by a majority of but one vote. This Ministry formed in October 1953 was a coalition one to begin with. In November 1953 the party position in the Assembly stood as follows: Congress 46, Communists, 42, Praja Socialist Party (PSP) 16, Krishikar Lok Party 14, Independents 13 (of whom 6 were with the Congress and 4 with the Communists), Krishak Mazdoor Praja Party (KMPP) 6, Scheduled Caste Federation 2, Socialists 1. The Government's

<sup>15</sup> *The Hindu*, 12 March 1953.

<sup>16</sup> *Ibid.*

prohibition policy, which proved to be its nemesis, was a subject of intense controversy in the State. In March 1954 an expert committee under the chairmanship of Ramamurthy which had been appointed by the Government to examine this problem, recommended the virtual abolition of prohibition on the ground that it had failed. The report of the committee was approved by the State Assembly in June 1954 but the Government took no action on its recommendations. On 4 November 1953 a vote of no-confidence in the Ministry was moved in the Assembly. The resolution said, 'That this assembly expresses its want of confidence in the Ministry for they had failed to respect and implement the recommendations of the Ramamurthy committee as decided by the Assembly on 27 May 1954'.<sup>17</sup> On 6 November the motion was carried by 69 votes<sup>18</sup> (Communist 40, Congress 2, Praja-Socialist 7, Krishikar Lok Party 8, Praja Party 2 and Independents 10) to 68 (Congress 48, Praja Socialist 1, Krishikar Lok Party 1, Praja Party 5, KMPP 1 and Independents 12) with one Independent abstaining and one Praja Socialist legislator absent, thus dealing a mortal blow to the Prakasam Ministry. The Government suffered the defeat on account of two Congress members and two members of the Praja Party (the pro-Government group) defecting and voting with the opposition.

Soon after the defeat, T. Prakasam along with his Council of Ministers submitted his resignation to the Governor, and also advised him in favour of dissolution of the Assembly. The leader of the Communist Party (which was the second largest party in the assembly) Nagi Reddy, thereupon met the Governor to press his claim to form the Government. He later told the press: 'I urged on the Governor that the Communist Party as the 'first party' in the elections had the right to form an alternative Government here and now, according to democratic principles. I have also told the Governor that my Government, when formed, would be stronger and more stable than the previous Ministry'.<sup>19</sup> The Governor, Chandu Lal Trivedi (who was earlier Governor of Punjab) ignored the plea, and on 15

<sup>17</sup>*The Hindu*, 5 November 1954.

<sup>18</sup>*Keesing's Contemporary Archives* (London: Keesing's Publications), Vol. IX, 1952-54, p. 139-40.

<sup>19</sup>*The Hindu*, 8 November 1954.

November 1954 President's rule was imposed in Andhra, and the State Assembly, too, was dissolved. Trivedi did not consider the appointment of any adviser necessary, as he did not in Punjab in 1952.

The decision to impose President's rule in Andhra was a controversial one—indeed the most controversial one since Article 356 was first invoked in 1952. The various political parties of Andhra were highly critical of President's rule imposition as they believed that it was done without fully exploring the possibilities of forming an alternative Ministry by the opposition parties. When in November the President's proclamation was placed in the Lok Sabha for its assent, it was approved but not without sharp criticism. The Home Minister defended the imposition of President's rule in Andhra on the ground that in parliamentary democracy, the Ministry, when defeated in the legislature, enjoyed the prerogative of recommending to the head of state to dissolve this Assembly and seek fresh election. 'This', he asserted, 'is very good and I submit it is a precedent which ought to be followed.'<sup>20</sup> A.K. Gopalan, the Communist member, on the other hand, alleged that all principles, conventions and traditions pertaining to parliamentary democracy had been cast to the winds when the opposition was not asked to form the government. 'In my opinion', he said, 'a constitutional crisis happens only when there is no confidence against a Ministry, then...there are other parties, and the leaders of other parties have to be called, and they are to be given a chance to form a government. If they are not able to form a government and if either the Governor or the Crown in authority finds that there is no possibility of running the administration, and there is nobody to take charge of the administration, then and then only, there is a constitutional crisis.'<sup>21</sup> Asoka Mehta observed, 'I am second to none in this House in my opposition, in my stout-hearted opposition, to the Communist. But in my opposition to the Communists I am not prepared to undermine, to give the go-by to the conventions of the Constitution....If the Communists are to be kept out of

<sup>20</sup>Lok Sabha Debates, Part II, Vol. VIII, No. 5, 19 November 1954, col. 418.

<sup>21</sup>Ibid., col. 434.

power, they must be kept out by fair play, not by the methods that have been pursued.<sup>22</sup> The resolution was approved by the Lok Sabha as well as the Rajya Sabha.

### Kerala (Then Travancore-Cochin)

Kerala was the fourth State to have come under President's rule. After the general election in the State held in February 1954 the party position in the 118-member Legislative Assembly was as follows: Congress 45, Communists 23, Praja Socialist Party (PSP) 12, Travancore Tamilnadu Congress (TTNC) 12, Revolutionary Socialists 9, Kerala Socialist Party 3, Independents 6, and Anglo-Indian representative 1. On 16 March 1954 the PSP's Pattom Thanu Pillai formed the Ministry with the support of the Congress. The Pillai Ministry fell when the Congress withdrew its support. Thereupon the Congress itself formed the government early in 1955. (The strength at this time: Congress 45; PSP 19, Communist 27, TTNC 12, and Independents 2.) The State Assembly was scheduled to commence voting on the budget demands on 15 March 1956, but on 10 March six legislators belonging to the Congress resigned from the party to mark their protest against the proposed transfer of five Tamil-speaking districts to Madras, thereby reducing the ruling party into minority. Thereupon, the Chief Minister, Govinda Menon, submitted to the Rajpramukh the resignation of his Ministry. Efforts at forming an alternative 'stable' government having failed, the Rajpramukh recommended to the President to proclaim President's rule in the State. The President issued the necessary proclamation on 23 March 1956. The State legislature was dissolved and it was made clear that fresh elections would be held in the State in February 1957 when the country was to go to the polls. P.S. Rau, who had been the adviser in Pepsu, was appointed as adviser to the Rajpramukh; according to the official notification during the President's rule the 'administration of the State will be carried on by the Rajpramukh acting upon the advice of Mr. P.S. Rau, ICS, who

<sup>22</sup> *Lok Sabha Debates*, Part II, Vol. VIII, No. V, 19 November 1954, col. 458.



has been appointed adviser'.<sup>23</sup> A week later, the Lok Sabha approved the President's proclamation enforcing Article 356 in Kerala. Defending this measure, the Home Minister, Govind Ballabh Pant, told the Lok Sabha that the leader of the Praja Socialist Party which had a strength of fifteen in a House of 118 (excluding the speaker who also belonged to the PSP) reported to the Rajpramukh at one time that he had the support of fifty-nine members but two of them withdrew their support to the PSP later. The Rajpramukh found that the PSP was not able to muster more than fifty-seven out of 118 members. This number 'was arithmetically less than half (the strength of the State Assembly) and the PSP was not in a position to form a Ministry', he asserted.<sup>24</sup> A.K. Gopalan denounced the imposition of President's rule in Kerala as being 'undemocratic, unjust, irregular and against all norms of democratic functioning in this country'.<sup>25</sup> He said that although the Congress did not command a majority it was invited by the Rajpramukh to form the Government which it did with the help of TTNC. 'It (the Congress Ministry) was not a stable government, but it was allowed to be formed.... The practice in Travancore-Cochin, Pepsu and Andhra has shown that where it was helping others, there has been a Ministry, but if the other parties could come together and form a majority, there could be no Ministry. So, it is either the Congress Ministry or no Ministry at all with President's rule'.<sup>26</sup> Asoka Mehta indicted the Rajpramukh for being partisan in his conduct and the Central Government for 'setting up wrong kinds of practices and wrong kinds of traditions in this country'.<sup>27</sup> The Lok Sabha approved the promulgation of President's rule on 29 March 1956. The same day the Lok Sabha passed a vote on account to enable the Kerala Government to continue functioning.<sup>28</sup>

<sup>23</sup>*The Times of India*, 24 March 1956.

<sup>24</sup>*Lok Sabha Debates*, Part II, Vol. III, No. 31, 29 March 1956, col. 3778.

<sup>25</sup>*Lok Sabha Debates*, Part II, Vol. III, No. 32, 29 March 1956, col. 3784.

<sup>26</sup>*Ibid.*, col. 3790.

<sup>27</sup>*Ibid.*, col. 3795-96.

<sup>28</sup>If the State budget or vote on account is not passed before 1 April, no expenditure can be legally incurred, thereby threatening the administration to come to a standstill.

In May 1956 the Lok Sabha passed the Travancore-Cochin State Legislature (Delegation of Powers) Bill, conferring on the President the power of the Legislature of Travancore-Cochin to make laws, and setting up a Parliamentary Committee which he might consult before enacting them for the State.<sup>29</sup>

### Kerala

The credit of having the Communist Party of India as the ruling party for the first time under the Indian Constitution goes to Kerala. This happened after the second general election held in 1957. The Communists came into power in the State through democratic processes but the opposition parties in Kerala, especially the Congress, showed little sign of being reconciled to the political spectacle of the Communists being at the helm of affairs in the State. *The Statesman*, a paper which is by no account a friend or even sympathiser of the Communists, commented, 'Ever since the Communist Ministry took office, the opposition parties have done all in their power to bring it down... They, especially the Congress, have cared little about the means. They seem to have forgotten that the Communists were returned to power through the ballot box and should be removed by that means alone... In some places at least, the Congressmen supplied the provocation that led to the unfortunate incidents.'<sup>30</sup>

In June 1959, the Congress, the Praja Socialist Party and the Muslim League combined their forces and formed a joint action committee to launch a 'non-violent' movement to bring to an end the Communist rule, or 'misrule' according to them, in Kerala. The Joint Action Committee issued a 37-point charge-sheet containing their allegations against the Communist Government in Kerala, the main ones being as follows:

- (1) The Communist Government in Kerala abused its administrative powers in the interests of the party-members while non-Communists were ignored.

<sup>29</sup>Lok Sabha Debates, Part II, Vol. V, No. 74, 28 May 1958, col. 9714-84.

<sup>30</sup>The Statesman, 13 September 1958.

- (2) It had negligently failed to carry out development programmes in accordance with the Five-Year Plan.
- (3) Fundamental rights were denied, there was no security for life and property, and the rule of law had ceased.
- (4) Corruption was 'increasing like a flood'.
- (5) Communist cooperatives, especially the numerous newly-founded labour contract societies and toddy-tappers societies were, given money from State funds, whilst non-Communist cooperatives were denied registration and encouragement.
- (6) The purchase of land for Government purpose and distribution of industrial loans and public works contracts, were conducted with a view to feeding party funds.
- (7) The State exchequer was depleted and the State had broken down economically.
- (8) The Government servants and the police have been made servants of the Communist Party so that the police personnel were compelled to suppress non-Communists whereas Communists could commit any crime without liability to prosecution; or even if a prosecution was initiated, it was immediately withdrawn afterwards.
- (9) The Education Act was designed solely for the destruction of the private schools in the State.
- (10) The people's religious sentiments had been offended and school text books had been converted into communist propaganda literature.
- (11) By recruiting special constables to meet the mass movement directed against them, the Government was arming its party members.

The charge-sheet concluded, 'The administration of the State is being carried on by the Communist Ministry on the principle that the Government and the party were the same. It has planted as many of the party members as possible in the Government. The Opposition is concerned about it because it would pave the way for a Communist party dictatorship.'<sup>21</sup>

<sup>21</sup> *The Times of India*, 12 June 1959.

The popular movement against the Communist Ministry was intensified and it quickly snowballed. Processions, strikes, mass arrests became the order of the day and the Government's normal functioning was rendered impossible. The sole demand of the agitators was immediate dismissal of the Ministry and the movement for this was spearheaded by the Congress Party. Although the Government did not lose its legislative majority the Governor, Ramakrishna Rao, sent his report to the President, recommending imposition of Article 356 on Kerala.

A summary of the Governor's report, compiled by Rama Krishna Rao himself recommending President's rule in Kerala was placed before the Lok Sabha on 17 August by the Home Minister, Govind Ballabh Pant. Pant had earlier rejected a Communist demand that the Governor's report as well as other relevant information given to President Rajendra Prasad be placed before the Parliament, on the ground that the documents were confidential and could not be made public.

The Governor's report<sup>21</sup> stated that 'the only solution which is available at present for resolving the serious crisis in Kerala is holding re-elections after taking action under Article 356 of the Constitution'. Reviewing the State Government's record, it recalled that 'the very first act that the Government did after assumption of power was a large-scale and indiscriminate release of prisoners, remission of sentences, and withdrawal of pending cases. . . . As a result of this step thirty-four Communist prisoners who had been sentenced for murdering policemen and others, and a large number of other prisoners of the same party convicted of serious offences against persons and property, also received amnesty and release. This act was not only a political irritant to other parties, but it also created a legitimate feeling among non-Communists that the Government was really putting a premium on violence so long as it related to members of their own party or their sympathizers. . . .

'The announcement of the Chief Minister regarding the new police policy laid the foundation for the deterioration of law and order, and also for legitimate fears for security of person and property. As a result of this policy, a feeling was created among industrial and other workers that a Government

<sup>21</sup>*Keating's Contemporary Archives*, Vol. XII, 1959-60, p. 17021.

representing the workers or the "proletariat" had come into power in Kerala, and that any excesses committed by labour in their dealings with the employers would be condoned. A series of labour troubles broke out in the plantations and other concerns which created a difficult situation for the planters and also for the Government. An attempt at clarification and modification was made by the Chief Minister, but the original pronouncement had done its mischief. The police became powerless to take preventive action under the Criminal Procedure Code, with the result that in plantations alone 120 incidents of a violent nature occurred during the few months that followed.'

On the Education Bill the report said: 'The Government tactlessly introduced the Education Bill without any previous consultations with the interests concerned. I had advised the Ministers to hold consultations, but unfortunately this advice was not accepted.... Previous Governments had also made attempts to control privately-managed educational institutions, but they seem to have succeeded only within certain limits because of the policy of moderation they followed. This Bill was evidently more drastic and aimed at almost complete control of private educational institutions.... It also gave rise to the fear that the aim in securing such complete control of educational agencies was to introduce totalitarianism and surreptitious indoctrination of Communist ideologies.'

Referring to 'a series of administrative actions by the Government' which had 'shaken the foundation of the trust of the people', the report mentioned innumerable complaints of interference by the Communist Party and by Ministers in the administration of law and order, and of discrimination in labour disputes with the alleged object of expanding the sphere of influence of the All-India Trade Union Congress against non-Communist unions. A general feeling of insecurity had grown up among non-Communists when it was found that 'double standards' were being adopted in the implementation of all policies, and it was 'this intense feeling' which had united the non-Communist labour organizations in support of the present widespread agitation to remove the Government.

'When the Government nationalized water transport certain concessionary boat fares granted to students by the private operators had been discontinued, leading to a doubling

of those fares. Because of their discontent the students had organized a strike, which had spread all over the State; as a result of the Kerala Communist Party's attempt to organise public opinion against it, there had been "violent clashes" resulting in injuries and deaths, whilst in other cases young boys and girls who participated in the agitation had been beaten up by the police.'

The demoralization of the police and other services had begun with the Chief Minister's enunciation of the policy that the police should not in any circumstances interfere in industrial and agrarian disputes and 'people's movements'. There had been many allegations that Ministers had personally contacted police officers to tell them what or what not to do in particular cases; many officers had been promoted over heads of their superiors, and some officers who displeased the Government had been 'treated in a vindictive manner'.

There was also truth in the allegation that the co-operative societies were being used for the consolidation of the Communist Party, and the allegation that toddy-tappers' co-operatives were mainly organs of the party was 'substantially correct'. The abandonment of the auctioning of toddy shops had cost a revenue of Rs. 4,00,000 in 1958, and it was understood that the extension of the scheme to other areas would result in a further loss of Rs. 1,00,00,000 in 1960. It appeared that these societies had liberally contributed to party funds, one at Trichur alone contributing Rs. 25,000.

'The financial position of the State has deteriorated to a certain extent', the report continued. 'The uncovered overdraft accommodation of the Reserve Bank went up to Rs. 3,50,00,000 and as the Reserve Bank insisted on the closing of that uncovered overdraft account the Government of India had to come to the rescue of the State Government and advance a loan of Rs. 3,50,00,000 for the purpose. . . It has to be admitted that this state of affairs is not peculiar to Kerala. Some other State Governments also seem to be in a similar position.' After pointing out that the increase in the State's expenditure was largely due to salary increases granted to civil servants and teachers, and to higher expenditure on education, the report nevertheless stated that 'it is not true to say that the State is "on the verge of financial bankruptcy".'

After rejecting the view that the 'unprecedented upsurge' in Kerala was 'a movement sponsored by communal organizations and vested interests', the Governor's report continued: 'This movement is not the result of one or two particular legislative or administrative actions of the Government. Many grievances—big and small—and many acts of omission and Commission of the Government during the last 28 months have had the cumulative effect of creating this definite shift in public opinion.... There is no doubt that by and large the Government has used the administrative machinery for consolidating its own party at the expense of others. It has given reasonable ground for the allegation that under cover of democratic garb and the technical majority that the Government enjoys, the content of democracy has been crushed. The spirit of give and take, negotiation and adjustment with Opposition parties, which is an essential element of democracy, has been absent. While it may be possible for the Government to explain away each individual allegation on some plausible ground or other, the main complaint of the Opposition parties—that the governmental machinery has been used to subserve mainly the purposes of the Communist Party, and that practically democracy has been set at naught—cannot honestly be denied....'

'The Communist Party has been completely isolated from the rest of the people. The Opposition has become so widespread that there are absolutely no neutrals in the State. It is really surprising that the Government should have become so unpopular. There is no doubt in my mind that there has been a definite shift in the mind of the people against the Government. I am also convinced that a situation has been reached which cannot continue without serious consequences. The Government, though not yet fully paralysed, is unable to function in a normal way. The agitation has continued for more than seven weeks and has not petered away as expected by the Government.... Considering the present situation, I have come to the conclusion that the administration of the State cannot be carried on in accordance with the Constitution any longer....'

On 31 July 1959 the Central Government announced the President's rule in Kerala. It was an altogether extraordinary context for the invocation of Article 356. The Namboodiripad Ministry continued to enjoy majority support within the

Legislature and, thus, did not present a situation of constitutional breakdown in the State. In the words of Morarji Desai, 'the Kerala Assembly was dissolved at the insistence of the then Congress President, Mrs. Indira Gandhi, though the then Prime Minister, Mr. Nehru, was against the dissolution'.<sup>23</sup> He said that he was a witness to Mr. Nehru and Mrs. Gandhi expressing differing views on the dissolution. Any way, the first experiment of the Communist Party coming into power through democratic processes and functioning within the framework of the parliamentary Constitution came abruptly to an end. As said earlier, the President's rule was promulgated in Kerala on 31 July 1959. In September, the Central Government appointed P.V.R. Rao, Chief Secretary of Mysore, as adviser to the Governor.

When the Presidential proclamation came for the Lok Sabha's approval on 17 August 1959, Govind Ballabh Pant, the Home Minister, explained why the Central Government's intervention in Kerala became necessary. The foremost among the reasons cited by him in support of the central action was the virtual abrogation of rule of law by the Communist Government, which had discriminated in favour of its party members, directed the police not to take preventive measures, released those who had committed heinous crimes and withdrawn cases on Communist supporters. On the other hand, S.A. Dange accused the Centre of hatching a conspiracy against the Communist Government in Kerala which always was like the proverbial mote in the Centre's eye. The Communist Government in Kerala, he said, began implementing the accepted policies and objectives of the country, which frightened the Centre. He observed: 'the problem is not one of programmes or objectives. Socialism is the objective.... The difficulty is that it is not being put into effect.... The laws in U.P., Bengal and Kerala are the same but the effects differ. People in Kerala gain while they do not gain in those States because the ministries are different. This answer would naturally be fixed in the minds of the people. The Congress has become the Ministry of the bourgeoisie land-lords while the other ministry is not....'

<sup>23</sup>Morarji Desai's statement to the press issued on 11 March 1974 when he began his indefinite fast demanding the dissolution of the Gujarat Assembly. See *Asian Recorder*, 1975, p. 11943.



Implementation of the existing programmes and also making new laws—this double-edged weapon was used by the Kerala Ministry in order to guard the interests of the toiling people and that was the complaint against us.<sup>24</sup> He concluded: 'The overthrow (of the Communist Ministry) was organised and blessed.... It was a conspiracy against the (Communist) Ministry. I am sorry to see that the conspiracy has succeeded. I must say that it is a fall of certain democratic values.... They (the Congress Government at the Centre) are absolutely partisan, narrow partisans and would overthrow people's government just because it is called Communist Government.... And so, instead of the Constitution there is the gun.'<sup>25</sup> Jawaharlal Nehru, however, denied that there had been a Congress conspiracy against the Kerala Ministry and said that the popular movement against the Communist Ministry in Kerala had been so big that 'it was quite beyond my capacity to stop it'.<sup>26</sup> The Centre's action was approved by the Lok Sabha on 20 August and by the Rajya Sabha on 25 August 1959.

## Orissa

Orissa has been a State lacking political stability. As the State included a number of former princely States, feudal politics have always had a fairly commanding influence on the people. Besides, the sizable tribal population in the State has been anxious and keen to maintain its distinct social complexion, thus providing the political base for the Jharkhand party. After the general election of 1957, the strength of the various parties in the 140-member Assembly stood as follows: Congress 56, Ganatantra Parishad 51, Praja Socialist Party 11, Communist Party 1, and Independents 7. In April 1957 (that is after the announcement of the election results) the single largest party in the State, the Congress, although not commanding an absolute majority, was invited by the Governor to form the Government. 'The

<sup>24</sup>*Lok Sabha Debates*, Second Series, Vol. XXXIII, No. 11, 17 August 1959, col. 2865-66.

<sup>25</sup>*Ibid.*, col. 2880-81.

<sup>26</sup>*Lok Sabha Debates*, Second Series, Vol. XXXIII, No. 12, 19 August 1959, col. 3141.

Government went on and functioned well on the whole. But the position remained somewhat unstable because of the substantial strength of the Ganatantra Parishad in the Legislature. And it happened that some members of one party joined the other party, and some members of the other party joined the first party. The floor crossing was a frequent affair in Orissa, and the result was that the Congress also had to carry on the administration in a somewhat difficult situation.<sup>37</sup> The situation became so difficult that, in 1958 the Chief Minister Harekrushna Mahatah tendered his resignation but was persuaded by the Governor to withdraw it and continue as head of Government. Haunted by political uncertainties, Mahatah suggested at this stage the formation of a coalition Government in the State. In May 1959 the Congress-Ganatantra Parishad coalition government—the country's first coalition between a national political organization (Congress) and a regional party (Ganatantra Parishad)—was formed with Harekrushna Mahatah as the Chief Minister. This coalition Government, on the whole, functioned well, and there was cooperation also between the two parties in so far as the administration of Government was concerned.<sup>38</sup> Hardly did the Government function for about a year and nine months when differences between the partners of the coalition arose, ultimately wrecking the coalition. The immediate bone of contention was: how long the coalitional arrangement was to last. The Congress had in its mind the idea of keeping the coalition intact only till the end of the budget session. On the other hand, the Ganatantra Parishad leader and the Finance Minister, R.N. Singhdeo, insisted that he be assured of the continuance of the coalition Government until six months prior to the general election before he would agree to present the budget in the Assembly.<sup>39</sup> There was deadlock between the partners. On 22 February 1961 Harekrushna Mahatah submitted the resignation of his Congress-Ganatantra Parishad

<sup>37</sup>The acting Home Minister, Lal Bahadur Shastri's statement on resolution seeking the Lok Sabha's approval of the proclamation of President's rule in Orissa. *Lok Sabha Debates*, Second Series, Vol. LI, No. 19, 8 March 1961, col. 3657.

<sup>38</sup>The acting Home Minister Lal Bahadur Shastri's statement, *Ibid.*, col. 3658.

<sup>39</sup>*The Times of India*, 21 February 1961.

coalition Government to the Governor, Y.N. Suthankar. Explaining the reason for such a move, Mahatah said<sup>40</sup> that in a parliamentary democracy a coalition Ministry should resign sometime before the general election so that the groups forming the coalition might be free to work in furtherance of their party interests.

The Governor sounded the leaders of the opposition parties, especially the Ganatantra Parishad, about the formation of an alternative Ministry. They all expressed their inability to do so. Orissa was ripe for Article 356. On 25 February 1961 President's rule was imposed on the State, the sixth one to have come under direct Central dispensation. The Legislative Assembly, too, stood dissolved.<sup>41</sup> What is more, the Speaker of the Assembly was also removed from his office. The last event is no less significant. It was for the first time in independent India's history that this functionary was dismissed from his office when the Assembly was dissolved.<sup>42</sup>

The resolution seeking the Lok Sabha's endorsement of President's rule in Orissa was moved on 8 March 1961 and, following two days' debate, was ultimately approved. Giving reasons for the collapse of the coalition Government in Orissa, the acting Home Minister, Lal Bahadur Shastri, pointed out that the Congress did not desire that the coalition continue. 'But I shall give you another reason', he observed, 'A coalition can continue till the elections separately or independently, because at the time of the elections the policies for which parties stand have to be made clear.'<sup>43</sup> Sharply reacting to this thesis, Asoka Mehta said<sup>44</sup> that the Minister was enunciating a 'dangerous principle' on the basis of which no party would like to associate itself with the Congress where it can be discarded like a soiled glove when it suits the ruling party'. Chintamani Panigrahi, a member from Orissa, regretted that neither the Chief Minister nor the Finance Minister were prepared to present even a 'vote

<sup>40</sup>*The Times of India*, 22 February 1961.

<sup>41</sup>*The Times of India*, 26 February 1961.

<sup>42</sup>*Lok Sabha Debates*, Second Series, Vol. LV, No. 53, 25 April 1961, col. 13609.

<sup>43</sup>*Lok Sabha Debates*, Second Series, Vol. LI, No. 19, 8 March 1961, col. 3661.

<sup>44</sup>*Ibid.*, col. 3662.

on account' for the benefit of the State over which they sought to rule and asserted that this was the height of irresponsibility. H.N. Mukherjee pleaded for the formation of a Committee of MPs, all drawn from Orissa itself, to be associated with the administration of the President's rule in the State. He observed, 'When under Constitution the President takes over the administration of a particular State, it is not like the application of the old Section 93 of the Government of India Act, 1935.... But under our Constitution the provisions amount to what is called in American terminology 'federal coercion', where in one particular State the constitutional machinery has, for certain reasons, failed or had broken down then the President or the Union comes into the picture and ensures that, in the circumstances, at least a certain amount of representative institutions can properly function and the representatives of the people can, to the extent that it is possible, be associated with the administration. That is why it is necessary that the President take the advice not only of his advisers who are in the Government but also leaders of people pertaining to this unfortunate State and he takes the advice of the Members of Parliament who come from that area.'<sup>45</sup> Accepting this suggestion, Lal Bahadur Shastri said that a parliamentary committee to look into the legislative affairs of Orissa under President's rule would be soon set up and it was to be composed of 'Members of Parliament both of Orissa and of other States as we did in the case of Kerala'.<sup>46</sup> The Lok Sabha rejected the motion sponsored by the Communists and the PSP censuring the Centre for the 'manner and the haste' in which the State was placed under President's rule. The Rajya Sabha, which approved the resolution on 27 March 1961, was informed by Shastri about the holding of fresh election in Orissa early in June 1961. The Lok Sabha, too, was informed about it on that date.

<sup>45</sup>*Lok Sabha Debates, Second Series, Vol. LI, No. 19; 8 March 1961, col. 3672-73.*

<sup>46</sup>*Lok Sabha Debates, Second Series, Vol. LI, No. 17, 8 March 1961, col. 3674.* It is only fair to point out that this promise was not kept when constituting the Consultative Committee on Orissa; while the Committee on Kerala included all the Members of Parliament representing that State, that for Kerala did not contain such a provision.

As the Governor himself was an experienced administrator, having only recently retired as Cabinet secretary in the Central Government, he did not feel the need for any adviser to assist him.<sup>47</sup> No adviser, therefore, was appointed in Orissa.

### Kerala

The election in Kerala following a 206-day spell of President's rule after the dismissal of Namboodiripad Ministry, in 1959, led to a situation of political instability as no party emerged with a clear majority in the State Assembly. A coalition Government under the Chief Ministership of PSP's Pattom Thanu Pillai consisting of the Congress and the PSP was consequently formed in February 1960. It was not before long that an astonishing event occurred in the State. In September 1962, Pattom Thanu Pillai who was the leader of the PSP resigned his Chief Ministership to take up the Governorship of far-off Punjab, an event which visibly shook the Praja Socialist Party ('Somehow one night he was whisked away',<sup>48</sup> a Member of Parliament said) and was interpreted by it as well as by many others as a political trick on the part of the Congress to lure others to its ranks. R. Sankar, the leader of the Congress Legislative Party and the Deputy Chief Minister in the Congress-PSP coalition, immediately stepped into Pillai's shoes. Angered by such a manoeuvre on the part of the Congress, the PSP left the coalition Government in October 1962, thus bringing to an end the thirty-one months' collaboration between the Congress and the PSP. Though the Congress Party continued to be the ruling party under the Chief Ministership of R. Sankar, it was itself riven by deep internal factions and feuds. In September 1964, fifteen dissident members under the leadership of K.M. George left the Congress, later to form a separate party called the Kerala Congress. On 7 September 1964 a no-confidence motion against the Sankar Ministry was moved in the Assembly and the following day the government fell before the combined onslaught of opposition

<sup>47</sup>*The Times of India*, 26 February 1961.

<sup>48</sup>*The Lok Sabha Debates*, Third Series, Vol. XXXIV, No. 12, 22 September 1964, col. 3133.

parties and the breakaway Congress legislators. Immediately after his defeat, Sankar submitted to V.V. Giri, the Governor, the resignation of his Ministry. The Governor's attempt to form an alternative Ministry having failed (each party expressed its inability to form a government), on 8 September he recommended President's rule and the following day the necessary Presidential proclamation was issued from New Delhi. The State Assembly was also dissolved. Writing on this event, *The Times of India* editorially commented: 'In a sense this (imposition of President's rule) is perhaps just as well. The fierce factional fight within the Kerala Congress over charges of corruption levelled against Mr. Sankar had gravely affected the efficiency of the state administration for quite some time before the overthrow of the Sankar Ministry. In these circumstances the people of Kerala have every reason to welcome the introduction of President's rule since they can henceforth expect the administration to be run with a fair degree of efficiency.'<sup>49</sup>

The Presidential proclamation was approved by the Lok Sabha on 23 September 1964 after a two-day debate on the Government's resolution. A few serious suggestions about experimenting with a new system of government in Kerala which could be an alternative to the existing 'classical' form of democracy were made in the Lok Sabha. R.K. Khadiolkar particularly expressed the desirability of trying an all-party government to enlist the participation and involvement of all parties. The Minister for Home Affairs, Jaisukhlal Hathi, felt, however, that this could be possible only by a formal amendment of the Constitution.<sup>50</sup> The Rajya Sabha approved the resolution on 30 September 1964.

It needs to be mentioned that a Committee of 45 MPs from both the Houses was constituted and was to be consulted before any legislation was undertaken for Kerala.<sup>51</sup> Members representing Kerala in both the Lok Sabha and the Rajya Sabha were included in this body.

An immediate question following the imposition of

<sup>49</sup>*The Times of India*, 10 September 1964.

<sup>50</sup>*Lok Sabha Debates*, Third Series, Vol. XXXIV, No. 12, 23 September 1964, col. 3383.

<sup>51</sup>*Lok Sabha Debates*, Third Series, Vol. XXXIV, No. 13, 24 September 1964, col. 3534-36.

President's rule was the appointment of an adviser to Governor in Kerala. This is as a rule done by the Home Minister in consultation with the Prime Minister, also taking into account the Governor's views on the matter. V.V. Giri apparently wanted an adviser and a deputy adviser but was against the appointment of superannuated persons.<sup>32</sup> Two senior officers, Govind Narain (who was chairman of the Minerals and Metals Trading Corporation) and R. Prasad (Joint Secretary in the Ministry of Petroleum and Chemicals) were sent to Kerala to assist the Governor in administering the State.<sup>33</sup>

### Kerala

The President's rule in Kerala was followed by election to the Legislative Assembly. The polling which was held on 4 March 1965, however, did little to clear the political confusion in Kerala. The party position in the 134-member State Assembly (including one nominated member) after the announcement of the election results stood as follows: Communists (Marxists) 40, Congress 36, Kerala Congress (led by K.M. George) 23, Swatantra 1 who aligned with Kerala Congress, SSP 13, Muslim League 6, Communist Party of India 3, Independents 10, Karshaka Thozhilali Party 1.<sup>34</sup>

Thus no single party as in the past managed to secure an absolute majority and was not by itself in a position to form a government. The Governor got in touch with various party leaders with a view to ascertain the possibility of formation of a stable government in the State. He summed up his discussions with them thus:

'The position that emerged from these consultations briefly was that although Mr. Namboodiripad (Communist Party of India-Marxist, CPI-M) felt it possible for him to negotiate with the various groups and individual legislators and evolve the basis on which a non-Congress Government could be formed, the leaders of the Kerala Congress and the Muslim League made it

<sup>32</sup>*The Times of India*, 17 September 1964.

<sup>33</sup>*The Times of India*, 18 September 1964.

<sup>34</sup>*The National Diary*, (Calcutta), Vol. 11, No. 21, p. 491.

clear to the Governor that they would not join or support any ministry that might be formed or sponsored by the Communists. The attitude of the Congress was that it would act as a "constitutional opposition", whatever government might be formed, supporting it to the extent its policies were in line with those of the Congress, but not otherwise. The leaders of the Samyukta Socialist Party (SSP) while desiring that the leader of the largest party should be called upon to form a government, said that they would not agree to be in a Ministry formed by the CPI-M, and would function as opposition taking, however, a responsive attitude towards such a Ministry. Thus except for the SSP which was not opposed to a Ministry formed or sponsored by the CPI-M, the parties were clear that they would neither lend support to, nor seek the support of, that party in forming a government. In the circumstances, the Governor found no possibility of the CPM commanding a working majority, even if those of their members, who were in detention were free to function as members of the Assembly. The Governor did not, therefore, call upon the leader of that party to form a government.<sup>43</sup>

The Governor recommended President's rule, and the Vice-President, Zakir Hussain, discharging at this time the functions of the President, signed the proclamation taking over the State Government and also dissolving the freshly elected Legislative Assembly.

The denial of an opportunity to the leader of the single largest party to try to form a government became an issue of intense political controversy in the country. It would have been a more prudent course of action if the leader of the single largest party was formally invited to form a Ministry and face the Assembly for a vote of confidence at an earliest possible date. Commenting on the event, *The Hindu* wrote: 'It is undoubtedly unfortunate that for the fourth time in nine years, Presidential rule should offer the only way out of a constitutional deadlock. The regret will be all the greater because over eighty members who had been elected to the Assembly for the first

<sup>43</sup>Home Minister, G.L. Nanda's statement on the decision taken following the consideration of the Kerala Governor's report to the President. See *The Hindu*, 25 March 1965.



time are denied the fruits of their victory by the dissolution of the Assembly even before it could hold its first meeting.<sup>46</sup>

### Punjab

It was under the directive of the central organisation of the Congress Party that the Gopichand Bhargava Ministry in 1951 had to resign. Ironically, history repeated itself in 1966 when Ram Kishan, the Chief Minister heading the Congress Government in the State, was induced to resign under the 'advice' of the party's central leadership. But the circumstances immediately attending the event in 1966 were dramatic, if not somewhat melodramatic. How the resignation of the Ministry came to be tendered is described by *The Times of India*: 'The Chief Minister (Ram Kishan) was addressing a crowded conference (in Chandigarh), when Mr. (Gulzarilal) Nanda's (the then Home Minister) phone came. All correspondents were asked to leave the room. Soon after, the Chief Minister called his cabinet colleagues who were present in Chandigarh. It is learnt that all of them favoured acceptance of Mr. Nanda's advice. A little later Mr. Ram Kishan got in touch with the Governor (Mr. Ujjal Singh, then camping in Simla) on the telephone and informed him of his decision to resign. The Governor counselled patience and said that the resignation could be submitted to him on his return to Chandigarh on Thursday (following day). The Chief Minister, however, preferred to send a special messenger with his letter of resignation. The Chief Minister told newsmen that he had tendered his Ministry's resignation in the interest of the smooth reorganisation of Punjab and the welfare of its people. Asked whether he had resigned voluntarily or at the instance of central leaders, Mr. Ram Kishan said that he had been in touch with central leaders for some weeks and knew their mind.'<sup>47</sup>

Ram Kishan, who succeeded the controversial Pratap Singh Kairon<sup>48</sup> on 6 July 1964, could not succeed in curing his

<sup>46</sup>*The Hindu*, 26 March 1965.

<sup>47</sup>*The Times of India*, 23 June 1966.

<sup>48</sup>Kairon had to resign in June 1964 from his Chief Ministership as a result of his censure by the Das Commission.

party of internal factional politics which, indeed, were rampant. The states in India had been reorganised on linguistic basis in 1956 but Punjab (and Bombay until 1961) remained bilingual. In view of the mounting popular agitation for bifurcation of Punjab into Hindi-speaking Haryana and Punjabi-speaking Punjab, the Central Government set up, in September 1965, a Parliamentary Committee of Members of both Houses of Parliament to examine the question of formation of a Punjabi-speaking State. Reporting in March 1966, the Committee recommended that 'the present State of Punjab be reorganised on the linguistic basis'.<sup>39</sup> On 10 June 1966 the Central Government announced the formation of the two States of Haryana and Punjab<sup>40</sup> with Chandigarh to remain as a Union Territory under the direct administration of New Delhi. As the State was, at this time, passing through the inevitable agony of division, passions in both parts of Punjab had been running high and the factions within the ruling party itself were making rather menacing noises.

The unseemly haste in tendering resignation was matched by an ungainly delay in making the necessary Presidential proclamation. Although Ram Kishan submitted the resignation of his Ministry on 22 June 1966 itself, within minutes of the fateful telephonic call from New Delhi it was not until 5 July that President's rule in Punjab could be imposed. The delay was apparently caused by New Delhi's sudden resolve to install a new Governor in Punjab to administer the President's rule. On the afternoon of 22 June, soon after Ram Kishan's resignation, the Central Government announced the appointment of Dharm Vira, Cabinet secretary at the Centre, as Governor of Punjab in place of Ujjal Singh who was placed, as he himself put it, 'under orders of transfer' to Madras (now Tamilnadu) as its officiating Governor. The Central Government apparently wanted the Governor's report from Dharam Vira's hands. The latter assumed office on 27 June and sent his report on 29 June recommending President's rule in Punjab. On 6 July 1966 Punjab was formally placed under President's rule. It was the

<sup>39</sup>*Report of Parliamentary Committee on the Demand for Punjabi Suba*, New Delhi: Lok Sabha Secretariat, 1966, p. 27.

<sup>40</sup>With the division of Punjab, certain areas were also to go to Himachal Pradesh.

first time in the history of President's rule in India that the State Assembly was not dissolved but instead kept 'in suspended animation'. 'As some doubts had been raised about the legality of this step, the matter was referred to the Attorney-General and the Law Ministry. Both had advised that President's rule could be imposed in any State without dissolving the Legislature.'<sup>41</sup>

Dharam Vira's first major task under President's rule was to facilitate the smooth division of assets and liabilities between the two new States. An advisory committee consisting of the outgoing Chief Minister and senior leaders from the two regions was immediately constituted to assist in the task. It was left to Dharam Vira to decide whether to have advisers or not. As President's rule in Punjab was calculated to help in dividing it into two separate States of Punjab and Haryana, it was designed as but a short-term measure to be lifted on 2 October as soon as the two States were ushered into existence. However, as subsequent events proved, it was not possible to revoke the rule until 1 November 1966.

<sup>41</sup>*The Times of India*, 5 July 1966.

## ***President's Rule in the States: 1967-71***

### **Rajasthan**

In Rajasthan the Congress failed to obtain an absolute majority after the fourth general election in 1967, winning 89 seats in the 184-member Assembly. The position of other political parties stood as follows: Swatantra 49, Jana Sangh 22, Samyukta Socialist Party 8, Communist Party of India 1, Independents 15 (including 11 of the Janta Party, a break-away party of the Congress). The effective strength of the Congress was 88 as one of its members was returned from two constituencies. The Swatantra, the S.S.P., the Jana Sangh and the Janata Party got together to form the United Front in a bid to form the government in the State. As four Independent legislators declared their support to the Congress, each side claimed ninety-one members, the minimum strength for forming the Ministry being ninety-two. Soon, the solitary Communist legislator threw his lot with the United Front, thus giving the latter a majority of one.

On 4 March 1967, the Governor, Sampurnanand (who had earlier been the Chief Minister of Uttar Pradesh and a leading member of the Congress Party) invited the leader of the Congress Legislature Party, Mohanlal Sukhadia, to form the Ministry. Defending this step, Sampurnanand said that the Congress had got eighty-eight seats while all the opposition combined had only eighty legislators. According to him the parties had fought the election on the basis of their policies which was not the case with the Independents, 'as the people do not know

their policies'.<sup>1</sup> That is why, he explained, he had not counted them while coming to his conclusion. He recalled a similar situation which occurred in Madras in 1952 when C. Rajagopalachari headed the Congress Government even though the Congress Party did not command a majority and T. Prakasam, leader of the opposition in that State, had brought together all the opposition parties and rendered the Congress a minority party.

The Governor's decision to invite Sukhadia and completely bypass the United Front was, not unexpectedly, denounced by the local opposition as 'unconstitutional, undemocratic and one-sided'.<sup>2</sup> On the following day (5 March), to mark their protest, the United Front leaders led a demonstration to the Governor's residence. A clash with the police resulted in the arrest of all the opposition leaders, which caused rioting. Jaipur continued to be the scene of disturbances, resulting in repeated police firings and many deaths. However, as a result of an intervention by Maharani Gayatri Devi, Member of Parliament, the Home Minister, Y.B. Chavan agreed to convene the first session of the State Legislature on 14 March, instead of on 20 March as earlier fixed. Just a day earlier (i.e., on 13 March), Sukhadia informed the Governor that 'in view of the deterioration of the law and order situation, due to the agitation by the Opposition, he did not want to take up the responsibility of forming the Government'.<sup>3</sup> Plainly the Congress was not prepared to face the Assembly. On Sukhadia's refusal, however, the Governor did not call upon the United Front led by Maharawal Laxman Singh to form the Ministry, observing, strangely, that 'I cannot for a moment expect such persons to follow democratic methods and procedures in administration'.<sup>4</sup> On 13 March the Governor sent his report to the President recommending the latter's rule in Rajasthan. The same day the Central Cabinet decided to put Rajasthan under Article 356 and the necessary Presidential proclamation was issued immediately. The State Legislature was not dissolved though this was the Governor's recommendation, but only kept suspended. As

<sup>1</sup>*The Hindustan Times*, 5 March 1967.

<sup>2</sup>*The Statesman*, 5 March 1967.

<sup>3</sup>*The Hindu*, 14 March 1967.

<sup>4</sup>*The Statesman*, 22 March 1967.

if to punish the legislators, their allowances and other facilities were completely withdrawn. Giving reasons for introduction of President's rule in Rajasthan, the Home Minister observed that the local opposition had planned a march on the Legislature and this could have caused riots and bloodshed.

The imposition of President's rule in Rajasthan was viewed by the Opposition as a dishonourable device to enable the Congress, which had forfeited its majority in the Legislature, to gain time and cleverly manage a majority by inducing defections in the ranks of the opposition parties. Maharani Gayatri Devi termed it as 'absolutely wrong', S.A. Dange, chairman of the CPI, branded it as 'unconstitutional and unprincipled' while S.M. Joshi, chairman of the SSP, called it as 'cold-blooded murder of democracy'.<sup>4</sup>

The United Front, thereupon, provided a physical demonstration of its majority by parading before S Radhakrishnan, the President, all its members, now totalling ninety-three. A memorandum, signed by all the ninety-three legislators, was submitted to the President urging, among others, immediate redressal of wrongs done to them. This however proved to be unavailing.

As time passed, political horse-trading began. The ranks of the United Front began to shrink; one of its members died and two defected to the Congress. Meanwhile, Sampurnanand completed his five year term of office and Hukam Singh (the former Speaker of the Lok Sabha) succeeded him on 21 April. Sukhadia submitted to the Governor a list of ninety-three members and Maharawal Laxman Singh, the leader of the United Front, a list of 109 names. The Governor interviewed all the legislators personally to verify their party allegiance and he found that the Congress had ninety-four supporters and the United Front eighty-eight. The verdict was clear, and on 26 April he invited the Congress to form the Government in Rajasthan. The President's rule, thus, lasted a total of forty-four days. Many viewed it as serving an immediate political purpose, in the sense that the Congress which in the beginning was not in a position to form the Ministry was enabled to muster the necessary majority and to come into power. The Central Government did not seek Parliamentary approval of the President's proclamation which was placed before

<sup>4</sup>*The Hindu*, 14 March 1967.

the two Houses soon after they met, which implied that it would cease to have any force two months after its promulgation. The President's rule was of a shorter duration.

The Rajasthan case, the first of its kind, was not to go unrepeatd in the future. The political situation characterized by neither the Congress nor the opposition parties initially commanding an absolute majority was to be faced time and again. Was the largest single party to be invited to form the Ministry? This doctrine could perhaps work where there was no other party or coalition of parties commanding an absolute majority of seats in the Legislature. If, however, a group claiming a majority emerges it ought to be given an opportunity. In such a situation it is scarcely open to a Governor to act as if that group did not exist. Likewise, the Governor's stand on the position of the Independents became highly controversial. Above all, the Rajasthan episode underlined the need for a code to guide Governors on the question of formation of Ministries.

### Haryana

Unlike Rajasthan and many other States, Haryana did not reflect the general political fluidity prevalent soon after the fourth general election. Though ridden with deep caste cleavages, the Congress succeeded in securing an absolute majority in the State Legislature and was installed in power on 10 March 1967. It was, however, hardly ten days old when it fell a prey to its internal strife which climaxed into the defection of thirteen members from its fold thus reducing its strength from forty-eight in the State Assembly of eighty-one to a minority. The immediate occasion was the election of Rao Birender Singh, a dissident Congress legislator, as Speaker of the Legislature, which was made possible by a group of Congress legislators voting for him and not for the official Congress nominee. This was the clear case of floor-crossing on their part—a phenomenon which, though by no means confined to it alone, was soon to give Haryana the dubious distinction of being its most avid practitioner. On 22 March 1967 the Congress Ministry resigned and on the same day Rao Birender Singh, now elected as the leader of the newly

formed Samyukta Dal (United Front), was sent for by the Governor to form the Ministry. The Samyukta Dal led by Rao Birender Singh came into office on 24 March 1967. The Samyukta Dal was a coalition of many parties and groups including not a few defectors from the Congress, which hardly augured well political stability in a State singularly marked for its caste and faction strife. Before long the Ministry began wobbling. It drew sustenance from the changing loyalties of legislators and its majority was a matter of almost daily fluctuations. In no State did floor-crossing assume such a virulent form as it did in Haryana. From March till November 1967, when the President's rule was imposed on Haryana, the score card of floor-crossing in this State showed that in the eighty-one member Assembly thirty-one defected one way or another—two four times each, two others thrice, four two times and the remaining twenty-three once.

Obviously, the Samyukta Dal Government could not have stability as a result of defections and counter-defections. It remained permanently instable until November 1967. On 6 November 1967, Hiranand Arya, a member of the opposition Haryana Congress (led by Devi Lal) defected to the Samyukta Dal, and was immediately appointed as Minister of Agriculture. On 8 November a Congress legislator defected and was appointed a Minister. On 11 November Arya re-defected to the fold of Devi Lal's Haryana Congress, and thus 'kicked it (ministership) away to expose the Chief Minister's (Rao Birender Singh's) corrupt practices',\* further alleging that the Chief Minister had offered him a 'bag of money' to change sides which he promptly refused. Thus merrily continued the see-saw game of defections and counter defections. Rao Birender Singh still commanded a majority of forty legislators in an effective House of seventy-eight.

On 17 November the Governor, B.N. Chakravarty, sent a report to the President indicting the Rao Birender Singh Ministry, highlighting the need for a clean and efficient administration and a fresh election after the administration had been toned up by a brief dip into President's rule. The Governor observed in his report that political defections became the chief feature of Haryana politics. 'The State

\*The Times of India, 12 November 1967.



Congress Party led by Pandit Bhagwat Dayal Sharma could not forget or forgive Rao Birender Singh for having started the game of defection from the party. Efforts were made almost continuously to topple the Ministry in cooperation with Devi Lal who wanted to form a Ministry under his leadership. The Chief Minister Rao Birender Singh, however, outmanoeuvred Devi Lal by expanding his Ministry....<sup>7</sup> The Ministry sought to maintain itself precariously in power by creating too many Ministers 'which is an abuse of constitutional powers'. Such 'large numbers of Ministers and parliamentary secretaries, numbering at one stage twenty-three out of ruling party's strength of forty-one and twenty-two now out of a total strength of forty, cannot be justified on any grounds of administrative requirement. The position is even worse if it is remembered that the ten Jana Sangh members in the Samyukta Dal, have not accepted any office as Ministers, so that in reality, twenty-two out of the thirty remaining MLAs are holding office. The Government, being preoccupied with the problem of its own survival, was not able to do much for the people. With such a thin majority the individual MLAs were making demands which, even if they were unreasonable, could hardly be resisted by the Chief Minister on account of the constant threat of defections. Administration was thus paralysed. Every legislator wanted to be a Minister or a parliamentary secretary, and political support was sought by offering ministerial offices at the cost of the tax-payer. 'Since the loyalty of its followers is so flexible, the exact majority of the ruling party is not of any consequence. Allegations have been made by the opposition that the Ministry is continuing' in power through corruption, bribery, political victimisation and distribution of offices 'but then the opposition is also apparently securing defections through no better means or through no cleaner methods. Allegations are being made openly by both sides that money is being paid to defectors. While it is difficult to say how far these are true, there are good reasons to believe that the defections are being secured by none too honourable means. Opportunist legislators, whose number is fairly large, can wield tremendous power by

<sup>7</sup>The full text of the Governor's Report was published in *The Patriot*, 22 November 1967.

threats of transferring their loyalties. They can do, and are doing, incalculable damage by interfering in administration. Too frequent transfers at their instance is demoralising the (civil) services. Since premature transfers cause a lot of inconvenience, junior officials often tend to succumb to such threats.' The Governor further added: 'If the Assembly is convened and either the ruling party or the opposition can establish its majority, even-then there will be no peace or stability in the present circumstances. Defections would continue and the majority on the one day might be reduced to a minority the next day. What would be more unfortunate is that as soon as one party establishes its majority in a trial of strength in the Assembly, it would like to get the Assembly prorogued.... Even during the intersession period, attempts would be made, as are now being made, to win over members from the rival group. Administration will continue to be paralysed since the Ministry will be kept busy only in maintaining itself in power'. 'I, therefore, recommend', he concluded, 'that you will be pleased to take action immediately and assume to yourself all the functions of the Government of the State. I must emphasise that an immediate dissolution of the State Assembly is essential. I do not recommend a mere suspension of the legislature because in that case, the see-saw game of defections and counter-defections will be resumed and one party or the other would insist on being allowed to form a Ministry on the basis of a tenuous majority, a majority which will not last since the next government can as surely be made ineffective, if not toppled over, by malcontents crossing and re-crossing the floor.'

On 21 November the President issued the proclamation dismissing the Samyukta Dal Ministry, dissolving the State Legislature and imposing his rule on Haryana. A copy of the proclamation was placed before Parliament the same day. The Home Minister, Y.B. Chavan, while seeking parliamentary endorsement of the Presidential proclamation, contended that organised defections had become a new phenomenon in Indian politics with legislators crossing and re-crossing the floor as many as four or five times. In this process, the people who had elected them had been cheated, democracy had been made a farce, and the administration was at a standstill. The

principal complaint of some of the opposition leaders was that the Centre was not applying one yardstick every where. A.B. Bajpai and Bakshi Ghulam Mohammed favoured legally enforced prevention of defections and provision for the recall of legislators who changed their party loyalties after election. The resolution was passed by the Lok Sabha on 21 November. The Rajya Sabha approved it on 27 November 1967.

Rao Birender Singh filed a writ petition challenging the Presidential proclamation which, however, was dismissed by the High Court.<sup>8</sup>

The proclamation of Article 356 in Haryana added an altogether new and novel dimension to the theory and practice of President's rule. Hitherto, the President's rule followed either the defeat of a Ministry or the inability of any party or coalition to form a Government, the only exceptions being Kerala (1959). Justifying the Central take-over of the Namboodiripad Ministry of Kerala (1959), which, it may be recalled, continued to command a majority, Jawaharlal Nehru told the Lok Sabha that the mal-administration of this Ministry had unleashed a 'mass upsurge' assuming the character and proportion of a 'civil war' which it was plainly beyond its power to control and, more particularly, the struggle acquired a communal turn in as much as the Christians had been definitely alienated by certain measures adopted by the Ministry. In the case of Haryana (1967) the central action did not follow any 'mass upsurge' or 'civil war' in the State. The theory propounded in the case of Haryana was that the political defections had polluted the politics of Haryana, from which it needed to be rescued through the device of President's rule in the State. This rule was lifted on 21 May 1968.

### West Bengal

The left-wing political parties supported by some Independents had a membership of 151 in the 280-member State Legislative Assembly after the fourth general election. On 25 February 1967 they formed a coalition of thirteen political

parties, known as the United Front under the leadership of Ajoy Mukherji, the leader of the Bangla Congress, a splinter party formed by the dissident Congressmen. The members of the United Front were: Bangla Congress, CPI, CPI-M, Forward Block, Workers' Party, Revolutionary Socialist Party, Socialist Party Centre, SSP, Gorkha League, Praja Socialist Party, Lok Sewak Sangh, Swatantra, Jana Sangh and some Independents. On 2 March 1967 the United Front formed the Ministry. Though committed to a commonly agreed minimum programme the United Front consisting as it did of disparate members was bedevilled by acute internal dissensions. The differences between its constituents related primarily to the manner of handling industrial and agrarian disputes and to questions of law and order. The United Front Ministry was dominated by the leftists and under its regime the industrial disputes in West Bengal rose steeply affecting the industrial and commercial activities all over the State, and law and order deteriorated in an alarming way.

On 2 November 1967 the fateful split in the United Front occurred. P.C. Ghosh, a Minister in the Ajoy Mukherji Ministry and the first Chief Minister of West Bengal after independence, resigned his ministership, and along with 17 other legislators withdrew their support to the Ministry, thus reducing it to a minority. Giving reason for his resignation, P.C. Ghosh anticipated an upheaval in the State if the United Front continued to be infirm in checking the activities of the violent elements roaming about as legitimate party workers. Soon after, 15 of the defectors informed the Governor, Dharam Vira, about their decision to support the Ministry headed by P.C. Ghosh, and at the same time the leader of the Congress Legislature party (which had 130 members in the 284 legislature) communicated a similar decision to the Governor P.C. Ghosh and his followers soon formed the Progressive Democratic Force (PDF).

From now on, political events began moving fast. On 6 November Dharam Vira asked the Chief Minister to convene the Assembly 'as soon as possible' so that the majority of his Ministry could be ascertained. The following day Ajoy

Mukherji informed him that 18 December was the earliest possible date for the purpose. Giving reasons for not holding the Assembly earlier than 18 December, he pointed out that the Cabinet and the legislators were busy in the Government's paddy procurement drive and, further, the Cabinet would be 'very busy' for the next few weeks in finalising the following year's budget.<sup>10</sup> He denied that his Ministry had lost the majority. The Governor considered Mukherji's decision that the Assembly be summoned on 18 December as a prolongation of the present uncertainty and did not feel convinced that it could not be convened earlier. On 15 November he requested Mukherji to summon the Assembly not later than 23 November but the Ministry rejected this suggestion two days later. At the same time the latter decided to request the President<sup>11</sup> to seek the advice of the Supreme Court on the following constitutional points: (i) Whether the Governor has authority to dismiss the Council of Ministers without taking the verdict of the Legislature under Articles 163 and 164 of the Constitution? (ii) If the Governor, on the basis of information available to him, entertains a doubt that the Council of Ministers does not enjoy the confidence of the Legislature can he, in his individual discretion, dismiss the Ministry? (iii) As the Governor is bound to act on the advice of the Council of Ministers in the matter of summoning the Legislature, is it open to him to disregard the advice of the Chief Minister? (iv) Can the Governor advise or insist that the Chief Minister should summon the Legislature on any other date? (v) If the Chief Minister fails or disagrees to comply with the Governor's advice, can he dismiss the Council of Ministers on the ground that non-compliance with the advice amounts to violation of the Constitution? (vi) If the Chief Minister fails or disagrees to comply with the advice of the Governor in the matter of summoning of the Assembly, can the Governor on that ground make a report to the President under Article 356? (vii) Is it open to the Governor to disregard the advice of the Council of Ministers to dissolve the Assembly on the ground that, in his personal opinion, the Council of Ministers do not have the support of the majority in the Assembly?

<sup>10</sup>*The Statesman*, 8 November 1967.

<sup>11</sup>*The Hindustan Times*, 18 November 1967.

The President declined<sup>12</sup> to refer the Ajoy Mukherji Ministry's request to the Supreme Court. Y.B. Chavan, the Home Minister, told the Rajya Sabha on 20 November that the issue of the discretionary powers of Governors could not be referred to the Supreme Court because such powers were not justiciable. Earlier, the Governors' Conference, meeting in Delhi on 9 and 10 November came to the view that the Governors were not to be guided solely by the advice of the Chief Ministers in regard to the summoning and dissolution of legislatures.<sup>13</sup>

The Governor later (15 November) suggested to the Chief Minister that even if the Ministry was not able to convene the Assembly by 23 November, it could recommend a date not much later.<sup>14</sup> This too was rejected.<sup>15</sup> The Ministry meanwhile sought the opinion of the State's Advocate General on the question whether it could be dismissed for its refusal to convene the Assembly at an early date in spite of repeated suggestions by the Governor. The Advocate General was reported to have told the Cabinet that the Ministry could be dismissed if the Governor was satisfied that it was not being run in accordance with the Constitution.<sup>16</sup>

Meanwhile, the Ministry continued to be intransigent on the issue of the date of the Assembly meeting. On 21 November 1967 the Governor acted, dismissing the Ajoy Mukherji Ministry, installing P.C. Ghosh<sup>17</sup> as Chief Minister, and in consultation with the new Chief Minister fixing 29 November as the date for summoning the Assembly. Ghosh's was a minority Ministry enjoying the support of the Congress Legislative Party having 130 legislators.

It was not very proper for the Ajoy Mukherji Ministry not to advance the date of summoning of the Legislature. The reasons given for fixing the date of meeting after nearly one and

<sup>12</sup>*The Hindustan Times*, 20 November 1967.

<sup>13</sup>*The Hindustan Times*, 11 November 1967.

<sup>14</sup>*The Times of India*, 16 November 1967.

<sup>15</sup>*The Times of India*, 19 November 1967.

<sup>16</sup>*The Times of India*, 16 November 1967.

<sup>17</sup>Earlier, the Governor called the leader of the Congress Legislative party, K.N. Das Gupta, and asked him if he would be willing to form the government. Das Gupta expressed his inability to do so but reiterated his earlier assurance to support the government headed by P.C. Ghosh.

a half months were simply irrelevant when what was precisely at issue was whether the Government commanded the majority in the Legislature or not. The Chief Minister's right to advise the Governor emanates from his having a majority in the Legislature. When this itself is open to doubt he must himself take the earliest opportunity to convene the Assembly and have his majority demonstrated. It was, therefore, unwise constitutionally no less than morally, for Ajoy Mukherji to precipitate a crisis over a matter hardly capable of arguing. Yet, why was the crisis precipitated? The Ajoy Mukherji Ministry apparently lost its majority consequent upon the defection of P.C. Ghosh and his seventeen followers. It was fully aware of its imminent defeat on the floor of the Legislature. It had before it three choices; to resign forthwith, to have a trial of strength in the Legislature and then to bow out of power, and, thirdly, to seek confrontation with the Governor and face dismissal by him. The Chief Minister was all the time under severe pressure from his Communist (Marxist) colleagues and the Cabinet was most unwilling to openly acknowledge the loss of its majority. Ultimately, dismissal by the Governor was preferred as such an action was bound to make it in popular eyes a wronged party and thus to generate good will and sympathy for it—which it needed rather desperately in view of its nearly completely unimpressive record of work since its inception. Dismissal was viewed as an imparting halo to the United Front Ministry.

Between the dismissal of the Ajoy Mukherji Ministry and the imposition of President's rule another event was to intervene. As soon as the Assembly met on 29 November the Speaker, Bijoy Kumar Banerjee, ruled that the dissolution of the United Front Ministry by the Governor, the appointment of P.C. Ghosh as Chief Minister and the summoning of the Assembly on his advice were 'unconstitutional and invalid since it has been effected behind the back of this House',<sup>18</sup> and he immediately adjourned the House *sine die* without giving a chance to the P.C. Ghosh Ministry to prove its majority. The central issue ever since P.C. Ghosh left the United Front was: who has the legislative majority and how best this could be ascertained? And this

<sup>18</sup>The Tribune, 30 November 1967.

became impossible to assess under the Speaker's ruling. This was a most bizarre situation created in the constitutional system of the State. While a popularly elected Ministry is subject to removal by the Governor under certain circumstances, the Speaker cannot be unseated except by a vote of the Assembly. But the Legislature must first meet before such a resolution can be taken up for consideration. The Speaker's ruling consequently had the effect of completely paralysing the constitutional machinery in the State. The Assembly was prorogued by the Governor. It was again convened on 14 February 1968. Meanwhile, on 15 January there was a split in the State Congress Party as a result of which 31 Congress and PDF legislators wrote to the Governor asserting that they had withdrawn their support to the Ghosh Ministry.

When the Assembly met on 14 February the Speaker announced that he had found no reason to change the ruling of 29 November, and again adjourned the Assembly *sine die*. As a result, there was no way left except to bring West Bengal under the President's rule. Dharam Vira sent a report (reproduced in Appendix I) to the President on 15 February 1968 recommending such an action. On 20 February the Chief Minister, P.C. Ghosh, submitted the resignation of his Ministry, recommending that the Assembly be dissolved, the Speaker removed and President's rule established in West Bengal. The same day (20 February 1968) the President issued a proclamation introducing President's rule in West Bengal, dissolving the Assembly and, in addition, suspending that provision of the Constitution which stated that when the Assembly was dissolved the Speaker should retain office until immediately before the meeting of the new Assembly. It was the second occasion in the history of President's rule in the country that the Speaker was removed from office simultaneously with the dissolution of the Ministry and the Assembly, the first instance of this kind occurred in Orissa in 1961.

### Uttar Pradesh

The Congress emerged as the victorious party in U.P.—as in Haryana—after the fourth general election. Its trouble,



however, started immediately after it formed the Government under the Chief Ministership of Chandra Bhanu Gupta. Soon after its installation in power, a number of Congress legislators led by Charan Singh defected, culminating in the collapse of the Congress Ministry. The defectors launched a new party, called the Janata Congress which later became the Bhartiya Kranti Dal, which immediately joined hands with the non-Congress parties which had earlier formed Samyukta Vidhayak Dal (SVD), of which Charan Singh was elected as the new leader. With the downfall of the Congress Ministry, Charan Singh was invited by the Governor, Bezawada Gopala Reddy, to form the Ministry. The SVD, thus, emerged as a six-party coalition Government consisting of BKD, Jana Sangh, Socialist Party, PSP, CPI, Republican Party and some Independents.

The SVD had originally formulated a nineteen point common minimum programme for implementation in case it came into power in the State. This had been chalked out before the BKD joined the SVD. The BKD later adopted the position that it was not necessarily bound by this common programme to which it was not an original signatory. Any way, the SVD Government consisted of such ideologically dissimilar constituents that its functioning became progressively difficult. It remained incessantly torn by grave dissensions which manifested themselves in the open. Not able to cope up with such a spectacle, Charan Singh, who had barely completed ten and a half months in office, resigned from the Chief Ministership on 17 February 1968 though he continued to be the leader of the SVD whose majority in the Legislature was intact. While tendering his resignation he advised the Governor 'to send for the new leader of the SVD with a view to forming the government, in case the Governor did not consider it advisable to do so, or the SVD failed to elect a leader, he might dissolve the Legislature and hold a mid-term election'.<sup>19</sup> Giving reasons for his resignation, Charan Singh told a press conference<sup>20</sup> that there could be no further compromise with his conscience and with the dictates of democracy.

The SVD failed to elect a new leader even after six days.

<sup>19</sup>*The Times of India*, 18 February 1968.

<sup>20</sup>*Ibid.*

the Indian Union. As the Assembly remained suspended, the efforts by both the SVD and the Congress to form the Government continued, each claiming majority support in the Assembly. Explaining the dilemma facing him, the Governor asked them whether he could install a ministry without verifying the bonafides of the claims of majority; should that Government continue without facing the House till July as the four-month vote on account had already been passed by Parliament. 'Will it be fair to all concerned, specially when I am confronted with some written evidence ("written pledges of the defectors switching over their loyalty to the Congress") which is placed before me.... The only issue before me is whether I should verify the claims of majority or not.'<sup>23</sup> Both the SVD and the Congress held diametrically opposed views on the question of ascertaining which party held the majority. The SVD advocated the 'floor theory', i.e., it should first be called to form the government and its majority be tested on the floor of the Assembly. The Congress was firm on the 'verification theory' which implied that the Governor should adopt any procedure he considered to be appropriate for confirming the change of loyalties of those legislators who had written to him and to the Speaker. The Governor was reluctant to take the odium of deciding which party had a majority in the absence of agreement between them on how to test the majority. Reluctantly, he veered round the opinion that it would do the political parties a lot of good if they had 'a holy dip in the Ganga of popular poll', as *The National Herald* put it picturesquely.<sup>24</sup> This he recommended to the President on 10 April 1968. The President signed the necessary proclamation on the same day dissolving the Assembly and ordering new elections.

The Presidential proclamation was approved by both the Lok Sabha and the Rajya Sabha on 25 March and 18 April 1968 respectively despite the opposition's criticism<sup>25</sup> that the question of majority must always be decided in the Legislature and not in the Raj Bhawan. The Uttar Pradesh State Legislature (Delegation of Powers) Act was also passed in

<sup>23</sup>*The National Herald*, 8 April 1968.

<sup>24</sup>*Ibid.*

<sup>25</sup>*The Lok Sabha Debates*, Fourth Series. Vol. XVI, No. 45, cols. 1440-48.

March 1968. As the proclamation is constitutionally operative for not more than six months at a time the Central Government unwilling to revoke it by 18 October 1968 approached the Parliament for its approval for the extension of President's rule for a further period of six months. The Lok Sabha and the Rajya Sabha passed the necessary resolution on 27 and 19 August 1968 respectively although some members regarded the demand for extension for President's rule as politically motivated.<sup>26</sup>

Mid-term elections were held in Uttar Pradesh in February 1969. On 26 February 1969, President's rule was terminated.

### Bihar

No party emerged with an absolute majority in the State Assembly after the fourth general election. In the 318-member Legislature the Congress had 128 members, SSP 67, Jana Sangh 26, CPI 24, Jan Kranti Dal 24, PSP 18, Swatantra 4, CPI-M 4, Republican Party 1 and Independents 22. In a bid to form the government, the eight non-Congress parties formed an alliance called Samyukta Vidhayak Dal (United Front) committed to a common programme, and the former BKD President Mahamaya Prasad Sinha was elected as its leader. On 5 March 1966 the SVD formed the coalition government in Bihar. The motivating force behind this alliance was not any integrated set of beliefs but expediency. The coalition was not ideologically compatible and was based on anti-Congress feelings. Quite early in its life, the SVD Government had to face serious differences over a proposal to make Urdu the second official language of the State. While feelings were running high in the State over this issue, communal riots broke out in Ranchi in August 1967. On 25 August B. P. Mandal of the SSP resigned from the Government and formed the Soshit Dal claiming 25 legislators as his followers. The SVD Government resigned following its defeat in the Assembly on 25 January 1968. This

<sup>26</sup>*The Lok Sabha Debates, Fourth Series, Vol. XX, No. 25, 27 August 1968, cols. 2266-69.*

was the fall of Bihar's first coalition and was followed by its several reshuffled versions in quick succession. B. P. Mandal of the Soshit Dal just nominated to the Upper House of the State Legislature formed a minority Ministry on 1 February 1968, with the support of the Congress. The Soshit Dal Ministry fell on 18 March 1968 when 15 Congress legislators voted with the SVD in support of a vote of no-confidence. Four days later (22 March) Bhola Paswan Shastri, one of the fifteen dissident Congress legislators who formed a separate party, called the Lok Tantrik Congress Dal (Democratic Congress Party) and now elected as the leader of the SVD was invited to take the reins of government in his hands. As the Assembly was debating the Appropriation Bill on 25 June 1968, Paswan Shastri abruptly resigned on getting a hint that one of his supporters, the Raja of Ramgarh, was planning to defect and immediately move a no-confidence vote against the Ministry. Paswan Shastri advised the Governor to dissolve the Assembly, introduce President's rule and hold mid-term elections in the State. The Governor, however, invited the leader of the Congress Legislature Party to form the Government. The latter sought time to consult the Central leaders of his party. The Governor wanted a new government immediately so that the State Assembly could without delay sanction expenditure after 30 June 1968 (it had passed a vote on account for three months). Having failed in his efforts, on 27 June he recommended President's rule (report is reproduced in Appendix II) as well as the dissolution of the Assembly in Bihar. The President issued the necessary proclamation on 29 June 1968, and also an order authorizing expenditure from the Consolidated Fund of India for two months pending sanction of it by Parliament. It is worth recalling that 85 out of the total number of 318 legislators in Bihar had changed sides since the last election of 1967 and the State had three ministries and four chief ministers during this period. The President's proclamation was approved by the two Houses of Parliament on 25 July 1968. The approval for its continuance for a further period upto six months was given by the Lok Sabha and the Rajya Sabha on 19 and 10 December 1968 respectively. The extension of President's rule became essential as the Chief Election Commissioner had fixed the date of the mid-term poll in Bihar in February 1969. On

26 February 1969 President's rule was revoked and a popular ministry came into power.

### Punjab

In Punjab again no political party secured an absolute majority in the 104-member State Legislature after the fourth general election. The largest party was the Congress which fell 5 short of an absolute majority. The party-wise position in the Legislature stood as follows: Congress 47, Akali Dal (Sant Fateh Singh Group) 24, Akali Dal (Master Tara Singh Group) 2, Jana Sangh 9, CPI 5, CPI-M 3, Republicans 3, SSP 1 and Independents 10. On 4 March 1967 the Akali Dal (Sant Group), the Jana Sangh, the CPI, the CPI-M the Republican Party, the SSP and six Independents formed a coalition, known as the United Front, commanding 53 seats in the 104-member Assembly, under the leadership of (Sant) Akali Dal's Gurnam Singh. On 8 March the United Front Ministry headed by Gurnam Singh was installed in office in Punjab. Within a month, it suffered an adverse vote on the Governor's address in the Assembly, but it did not resign. Its argument was that (i) the substance of the amendment to the Governor's address had been conceded by the Government, (ii) none crossed the floor and the Ministry continued to enjoy the support of the majority in the Assembly and (iii) the vote was a free one as no party whip had been issued by the United Front.

Soon started the unedifying game of defections. Three legislators of the Congress joined the United Front, and were immediately made ministers. Defections and counter-defections continued. On 22 November 1967 when the Assembly met for its winter session Lachhman Singh Gill, the Education Minister, and 15 other legislators resigned from the United Front and formed a new party, the United Punjab Janta Party. Gurnam Singh, the Chief Minister of the United Front, resigned on the same day, advising the Governor to dissolve the Assembly and hold new elections. Meanwhile the Congress promised support to Gill. The Governor did not accept the outgoing Chief Minister's advice about dissolution of the Assembly, arguing that 'as long as it is possible to form a government, it should be

in the forthcoming Presidential election, due in August 1969. On 4 July 1969 Bihar was formally placed under President's rule. This was for the second time in Bihar since 1967, and within five months of the mid-term election. The proclamation was approved by the Rajya Sabha and the Lok Sabha on 21 August and 30 August 1969 respectively. It was revoked on 16 February 1970, on receipt of a report from the Governor that Daroga Prasad Rai of the Congress was in a position to form the Government.

### West Bengal

The President's rule in West Bengal continued until after the mid-term election of February 1969, when a coalition Government consisting of 14 non-Congress political parties including the CPM came into power again under the Chief Ministership of Ajoy Mukherji. The United Front Government included such disparate elements that it hardly enjoyed any internal harmony. Progressively, internal differences within it grew so acute that on 16 March 1970—one year and 3 weeks after remaining in power—the Chief Minister resigned swearing that in future he would never be in a front which includes the CPI-M.<sup>30</sup> While submitting his resignation to the Governor, he made no definite recommendation on the future course of action by the latter. The Governor, S.S. Dhavan, thereupon invited Jyoti Basu, leader of the CPI-M, the largest single party in the Legislature (80 members in a House of 280) to form the Ministry. The CPI-M leader was ready to do so, but demanded that his majority be tested in the Assembly and in this regard he cited the precedents in Kerala and Bihar. *The Times of India*, however, reported, 'The CPI-M's claim in Calcutta today that it could form a government made little impact on the Union Government's assessment that there is no alternative to President's rule in the State. Although the Union Government would like the Governor to go through the full constitutional drill by calling the CPI-M leader, Jyoti Basu, to justify his claim, there were sufficient indications to strengthen the belief that the

<sup>30</sup>*The Hindustan Times*, 18 March 1970.

Central Government is not going to be a party to allow Basu to form a government on the assumption that the strength of the new government could be tested in the Legislature.<sup>31</sup> The Governor reported to the President, V.V. Giri, that Jyoti Basu had told him that he (Basu) was not prepared to furnish evidence that he had the support of a majority of the legislators in advance of a trial of strength in the Legislature. Since the other parties had also declined to take the responsibility of forming a government, the Governor recommended President's rule in the State. On 19 March, 1970 West Bengal found itself placed under President's rule again. The State Assembly was suspended. This was intended apparently to give time for the political situation to stabilise in the hope of new alignments emerging leading to the formation of an alternative government but in reality to allow election to the Rajya Sabha, which were shortly due to be completed.

S.S. Dhavan came from the field of law lacking any previous administrative experience. Appointment of advisers was therefore one of his earliest tasks under President's rule. In the beginning, the appointment of only two advisers was considered. Ultimately, five were appointed: K. Sen, M.M. Basu, A.K. Ghosh, B.B. Ghosh and A.N. Kidwai. Although President's rule was imposed in the State on 19 March 1970, the advisers could be appointed only on 6 April 1970. And even after that it took them some time to get going primarily because of an internal wrangle over the allocation of work among them. Two days after his appointment, B.B. Ghosh resigned his advisership, arguing that his portfolios 'were not good enough for him'.<sup>32</sup> He even had meetings with the Prime Minister and the Home Minister, explaining his stand. Ultimately, he accepted the adviser's post but the framework of administration of the State was somewhat revised. Under the new arrangement the Governor was relieved of executive responsibility which came to be vested in the advisers. One of the advisers, designated as the principal adviser, was put in charge of coordinating the work of the different portfolios.

<sup>31</sup>*The Times of India*, 18 March 1970.

<sup>32</sup>The Governor himself made this observation. See *The Times of India*, 9 April 1970.

This was a kind of climb-down for the Governor. It is reported that both the Prime Minister and the Home Minister whom Dhavan met after the imposition of President's rule in the State told him 'in very clear terms' that 'he has to be guided by the Centre's advice in the selection of his advisers or allocation of portfolios among them.'<sup>33</sup> 'Official sources... maintained that the administration in the State must be carried on in accordance with the Centre's wishes....'<sup>34</sup> Very soon, the rules of business were amended primarily to provide for regular meetings of the advisers. Under the new arrangement the Governor and his advisers were to function as a Council of Ministers and the Governor used to preside over the meetings of the advisers.<sup>35</sup>

While seeking Parliament's approval of the promulgation of President's rule in West Bengal, the Minister of State for Home Affairs confessed that the Central Government could not cure all the ills of West Bengal under President's rule. But the Centre, he said, would try its best to give a 'positive and dynamic direction besides a clean administration in the State.'<sup>36</sup> The President's rule was revoked on 2 April 1971.

## Kerala

In 1970 Kerala's United Front Ministry was a coalition consisting of the CPI, the Indian Muslim League, the Indian Socialist Party (ISP) and the Kerala Congress and supported by the Revolutionary Socialist Party. Its Chief Minister, C. Achuta Menon, belonged to the CPI. In April 1970 the ISP, one of the constituent parties, faced a split. On 2 April, following this party's request, the Chief Minister asked N.K. Seshan, the Finance Minister who had broken away from ISP and joined the dissident group, to resign. On 26 April this group consisting of 3 legislators retaliated and merged with the Praja Socialist Party (PSP) which, encouraged by its increased

<sup>33</sup>*The Hindustan Times* 22 April 1970.

<sup>34</sup>*Ibid.*

<sup>35</sup>*The Times of India*, 17 April 1970.

<sup>36</sup>*Rajya Sabha Debates*, 31 March 1970.



membership, at once demanded membership of the coordination committee of the United Front. Meanwhile a battle between the ISP and the PSP ensued. The former party threatened to wreck the coalition if the PSP were included in the coordination committee; but if it were not included, the PSP swore to join the Opposition and thus strip the Ministry of its majority. Achuta Menon's dilemma was apparent.

It was barely five weeks since the Government had demonstrated its majority in the Legislature; on 23 March the Achuta Menon Ministry had received a vote of confidence from the Assembly by a majority of 66 votes to 58. The Government would have lost its majority if the ISP had withdrawn its support. Anxious to avert this danger, Achuta Menon on his own advised the Governor, V. Viswanathan, to dissolve the Assembly which the latter did on 26 June 1970. It was only after the Governor had dissolved the Assembly that he informed his Cabinet that he had himself asked for dissolution of the Legislature. As he later explained to the press, Achuta Menon advised dissolution 'to get a clear mandate from the people so that the political uncertainty could be ended and there could be a stronger Government'.<sup>47</sup> On 1 August, after the date of election (which was 17 September 1970) was announced, he tendered the resignation of his Ministry, declaring that he had done so in view of the criticism that the continuance of his Ministry would have hindered free and fair elections in the State. Accordingly on 4 August President's rule was imposed in Kerala for a period of two months. As the period did not exceed two months, the Parliament remained out of the picture. President's rule was lifted on 3 October 1970 and a popular Ministry took over the reins of Government.

### Uttar Pradesh

The elections to the Assembly held in February 1969 gave the Congress 209 seats in the 425-member Legislature. On 25 February the Governor recommended revocation of Presidential proclamation, which was done the following day.

<sup>47</sup>*The Times of India*, 27 June 1970.

Under the Chief Ministership of C.B. Gupta, the Congress formed the Government.

Though it won the electoral war, it could not enjoy for long the fruits of its victory. What the electorate gave in no uncertain terms, the party set out to decimate before it even completed one year of its tenure in office, the fateful split which occurred in the Congress a year later, which reduced the Chief Minister's followers, now in Congress (O), into a minority. Still, claiming the support of majority of the legislators, C.B. Gupta did not, however, step down from the Chief Ministership immediately after the break-up of the Congress into the Congress (O) and the Congress (R). It was only on the eve of the budget session that he resigned.

On 17 February 1970 Charan Singh stepped again into Gupta's shoes, this time with the support of the Congress legislators. On 19 April the Congress formally joined the Ministry. Before long, however, internal differences marred the harmony of the coalitional partners—B.K.D. and Congress (R), so much that the coalition was seen hurtling inevitably towards its collapse. On 25 September 1970, Charan Singh demanded dismissal of all the 26 Congress Ministers. Though more than two days elapsed after Charan Singh urged the Governor to dismiss the Ministers, the Governor did not respond to the Chief Minister's advice. With the Ministers refusing to resign at Charan Singh's instance and the Governor resisting the Congress suggestions to remove Charan Singh, the State found itself plunged into an unprecedented constitutional crisis. The Ministers were too busy trying to save or sink the Ministry to attend to official work, and administration virtually stood paralysed.

When the Governor did not act, the Chief Minister wrote to him on 27 September 1970 that under Rule 3 of the U.P. Allocation of Business Rules, he was advising him that the departments held by the Congress Ministers 'will, with immediate effect, also be held by me.'<sup>24</sup> The Governor accepted the advice and informed the 13 Cabinet Ministers belonging to the Congress. The Ministers of State and Deputy Ministers of the Congress stood automatically divested of their work when the portfolios

<sup>24</sup>*The Times of India*, 28 September 1970.

of the Cabinet Ministers, to whom they were attached, were taken away. Since the Governor did not accept the Chief Minister's advice to dismiss the Congress (R) Ministers, they remained as Ministers without Portfolio.

Later, the Governor, acting on the advice of the Attorney-General, refused to dismiss the Ministers sacked by Charan Singh and asked, instead, the Chief Minister himself to resign. 'You are heading a coalition in which the major partner was Congress (R). The coalition no longer exists as is apparent from various letters which I have received from you and Sri Kamalapati Tripathi. Under these circumstances, the doubt naturally arose about the constitutionality of your functioning as Chief Minister and whether I could act on your advice about the removal of the Ministers. I, therefore, obtained the opinion of the Attorney-General. I am now satisfied that in the existing circumstances, your functioning as Chief Minister is not in accordance with the Constitution....'<sup>33</sup>

B. Gopala Reddy, the Governor, recommended imposition of Presidential rule in Uttar Pradesh. In his report the Governor said that there had been a breakdown of the constitutional machinery following the withdrawal of support by the Congress to the Charan Singh Ministry. He recommended imposition of President's rule for a short period as no stable Ministry could be formed either by Kamalapati Tripathi or by BKD, the alliance of Congress (O), and Jana Sangh. He was convinced that even if an alternative Ministry was formed, it would not last long. In view of the fickle loyalties of legislators and other factors, President's rule was the only way out of the impasse. The Governor concluded:

In a nut-shell, the situation today is that 27 ministers have refused to resign at the suggestion of the Chief Minister. He has asked me to dismiss them. When I requested the Chief Minister to resign, he has asked for clarification and is prevaricating. While it is true that the philosophy underlying the functioning of the coalition Government has not yet crystallised, the powers of the Chief Ministers of such Governments have to be viewed vis-à-vis the constitu-

<sup>33</sup>The Hindustan Times, 29 September 1970.

## **President's Rule in the States: 1972-76**

### **Mysore**

Mysore came under President's rule on 27 March 1971 and remained so administered until 20 March 1972. This was Mysore's first taste of President's rule. The split of 1969 did not perceptibly alter the ruling Congress Party in the State as only twelve of its legislators joined the Congress (R), the great majority remaining with the Congress (O). The Congress (O) Ministry under the Chief Ministership of Veerendra Patil was in power in Mysore, when the State was called upon to elect 27 Members of Parliament in the 1971 Lok Sabha election. Contrary to all expectations, the Congress (R) (presently referred to as Congress) scored spectacular electoral success, bagging all the 27 Lok Sabha seats, and completely routed the Congress (O). The ruling party in Mysore stunned by the Lok Sabha election results, found 20 of its legislators including 3 ministers defected to the Congress (R).

The complete rout of the Congress (O) in the Lok Sabha election had already shaken its moral authority to continue in power. The large-scale defections from the party clinched the issue by stripping it of its majority. On March 1971—within a week of the announcement of parliamentary election results—Veerendra Patil submitted the resignation of his Ministry to the Governor, Dharam Virā, although he did not face an adverse vote in the Assembly.

The Governor, thereupon, called the leader of the Congress (R) to form the Government. No sooner than Patil resigned, that his party's legislators began vying with each other

in joining the Congress—almost 'in a kind of gold rush.'<sup>1</sup> Its strength swelled from 57 on 15 March to 120 on 22 March, with many applications still under consideration. The Praja Socialist Party, having 11 legislators in the Assembly, was not to be left behind and joined the stampede by altogether merging with the Congress Party on 19 March. The leader of the Congress would have formed the Ministry with the support of the ever-swelling number of defectors but for the firm directive of the Central party leadership forbidding Ministry-making. On 26 March the Central party leadership decided to have a temporary spell of President's rule in the State. It was proclaimed on 27 March but the Assembly was kept under suspension. President's rule did not altogether still political activity in Mysore, for the suspension of the Assembly indicated a hopeful sign of a popular government being revived. The legislators in general and the defectors in particular were most loath to go into wilderness and desperately tried to put any party into power. When, therefore, the Congress Party's decision not to take office became known, at least 20 of the defectors re-defected to the Congress (O). The last ray of hope vanished when Veerendra Patil, whom the Governor invited on 13 April to form the Ministry, declined to do so stating that the Ministry dependent on the support of the defectors could not expect to be stable. On 14 April 1971 the Assembly was also dissolved.

The Lok Sabha and the Rajya Sabha approved the proclamation on 24 May and 25 May 1971 respectively. K.C. Pant, who moved the resolution for adoption by Parliament, referred to the impact on defections caused by the President's rule. He observed, 'I think that in the context of what has been said in the House today and in the past about the need to take some action to discourage defections, it (President's rule in Mysore) was a healthy thing that was done.'<sup>2</sup> Another Member of Parliament, M.K. Krishnan, countered this argument by observing, 'The ruling party does not want any other party to be in power in any State and if there is any State where any

<sup>1</sup>*The Statesman*, 23 March 1971.

<sup>2</sup>*Lok Sabha Debates*, Fifth Series, Vol. II, No. 1, 24 May 1971, col. 203.

Sensing the snowballing effect of defection, on 11 May the Chief Minister advised the Governor to dissolve the Legislature, and hold fresh election while his Ministry was to remain in office on a care-taker basis. Shriman Narayan, the Governor, rejected this demand and recommended the imposition of Article 356 on Gujarat, which was done by the President on 13 May 1971. It needs to be mentioned that on 29 March the Assembly had passed a vote on account for expenditure for only the first four months of the year 1971-72 and the budget for the remaining part of the year was to be passed before 31 July 1971. The Governor explained to Hitendra Desai that if the Assembly was dissolved as suggested by him, it would not be possible to pass the budget by 31 July and the State administration would come to a standstill. Hence the inevitability of President's rule in the State. The President's proclamation was approved by the Lok Sabha and the Rajya Sabha on 21 June and 31 May 1971 respectively. As President's rule continued for more than six months, another Parliamentary approval was secured during the winter session of 1971. It was revoked on 13 March 1972, when a Ministry came into office following the mid-term Poll.

### Punjab

The mid-term poll held in Punjab in February 1969 did not give absolute majority to any single political party in the State. In the Assembly of 104, Akali Dal had 43 seats, Congress 38, Jana Sangh 8, CPI-M 2, Swatantra 1, SSP 2, PSP 1, Janata Party 1, and Independents 4. As Akalis and Jana Sangh already had forged a pre-election alliance a coalition Ministry consisting of both these parties came to office on 17 February 1969 with Akali Dal's Gurnam Singh as the Chief Minister. However, the two parties did not see eye to eye on many a matter, especially, on the question of language policy for the State. Moreover, the Akali Dal itself was ridden by internal dissensions which soon led to the emergence of two separate groups led, respectively, by Sant Fateh Singh and Gurnam Singh and ultimately climaxed in the over-throw of Gurnam Singh. On 25 March 1970 the coalition suffered a defeat in the Assembly.

After a measure of initial hesitation, Gurnam Singh resigned on the following day. On 27 March 1970 the Governor installed Prakash Singh Badal as the Chief Minister heading a coalition Ministry consisting of the same old partners—Akali Dal and Jana Sangh. But the two parties could not get along for very long. The immediate reason for the estrangement was the refusal of the Akalis to honour their commitment to the setting up of the Dayanand University at Jullundur or to restricting the jurisdiction of the newly set up Guru Nanak University at Amritsar. Irked by such a volte face on the part of the senior partner, the Jana Sangh walked out of the coalition on 1 July. Also, the Akali Dal suffered a reduction in its strength as a result of defection from its ranks. Consequently, the party position in the Assembly had become extremely fluid. To test the support of the ruling party the Assembly was convened on 24 July 1970. In the trial of strength that took place in the Legislature the Badal Ministry survived, thanks to the neutral posture adopted by the Congress at the crucial time of voting. But this was significant in heralding the emergence of an 'understanding' between the ruling Akali Dal (Sant Fateh Singh Group) and Congress.

The Akali Dal, though a minority party, now continued to be in power on account of the support assured by the Congress. But the party was torn by acute internal dissensions. Many of its members demanded reduction in the size of the Ministry and an inquiry into allegations of corruption against some of the ministers. In a dramatic move on 1 June 1971, all the ministers submitted their resignations to the Chief Minister to enable him to reconstitute the Ministry. In the meantime a secret move to topple the Badal Ministry was also afloat. The Congress reached an understanding with Gurnam Singh, Badal's predecessor and political adversary, and was contriving defections from the ruling Akali Dal. The plan was either to instal Gurnam Singh as the Chief Minister with the support of the Congress or to form a coalition of the Congress and the defectors from the Akali Dal. On 12 June one of the ministers resigned from the Government alleging that the Ministry was reeking with corruption<sup>4</sup>. Immediately on receipt of the resignation, Prakash Singh Badal

<sup>4</sup>*The Tribune*, 13 June 1971.

rushed to the Raj Bhawan to advise the Governor to dissolve the Assembly, accusing the Congress of encouraging defections. On 13 June 1971 D.C. Pavate, the Governor, ordered the dissolution of the Assembly but asked Badal to continue till alternative arrangements were made. Meanwhile, the Akali Dal was further wrecked by defection, as a result it was left with a following of but 39 in the Legislature of 104 members. The defectors formed a new party, called the Shiromani Akali Dal. The new party and the Congress demanded that the Assembly should not be dissolved. The plea proved to be unavailing as the Governor had already ordered its dissolution and there was no question of going back. Prakash Singh Badal tendered his resignation the same day, and President's rule was proclaimed in Punjab on 13 June 1971.

As the Punjab Assembly had passed a vote on account for first three months the budget for the remaining part of the new financial year needed to be passed. This the Parliament did on 17 June 1971. On 2 August the Lok Sabha began considering two resolutions simultaneously: one in relation to the President's proclamation and another on the Punjab State Legislature (Delegation of Powers) Bill. The resolution and the Bill were passed on 5 August 1971 after a discussion lasting slightly less than three hours. The speakers participating in the discussion generally accused the Badal Ministry of rampant corruption and the ruling party at the Centre for showing 'signs of impatience and intolerance immediately after the formation of Government even in a State by an opposition party.'<sup>2</sup> Following mid-term poll the President's rule was withdrawn on 17 March 1972.

### West Bengal

As discussed earlier, West Bengal had come under President's rule for the second time in March 1970. The State was torn by violence during this period; the Central Minister of State for Home Affairs stated on 9 December 1970 that 226

<sup>2</sup>J.M. Gowder, *Lok Sabha Debates*, Fifth Series, Vol. VII No. 55, 5 August 1971, col. 224.



political murders were committed in the State in the first 10 months of 1970 compared with 95 in 1969. An unprecedented wave of terror was sweeping this eastern State and, understandably, the foremost attention of the State Government under President's rule was to strike out terrorism from its land. The Central Government, too, was determined not to lift President's rule until law and order was reasonably restored in the State. This continued to be the Central stand until the end of December—even after the Lok Sabha had been dissolved on 27 December to seek fresh mandate from the people. But suddenly on 7 January 1971 an announcement was made to hold election to the West Bengal Assembly on 10 March 1972, simultaneously with the Lok Sabha poll. The election campaign which was geared to a high pitch was marked by widespread violence but the voter's turnout was impressive and the electoral verdict unclear.

The election was fought by two party alliances or 'Fronts'. The United Left Front (ULF) consisted of CPI-M, Revolutionary Communist Party, Forward Block (Marxist), Workers Party, and Biplab Bangla Congress. The United Left Democratic Front (ULDF) included CPI, Socialist Unity Centre, Forward Bloc, and Gurkha League. The Congress, the Congress (O) and the Bangla Congress contested the election independently. The party position in the 280-member Legislative Assembly stood as follows:

<i>United Left Front</i>		
Communist Party (Marxist)	111	
Others	12	
<i>United Left Democratic Front</i>		
Communist Party	13	
Others	12	
<i>Other Parties</i>		
Congress	105	
Muslim League	7	
Bangla Congress	5	
Congress (O)	2	
Others	10	
Total		277 (3 seats were vacant)

As would be evident from the above results, the politics of West Bengal became greatly polarized, the two chief contenders for power being the CPI-M and the Congress—the former having emerged as the single largest party in the State. The United Left Front (which had become into existence before the election) commanded 123 seats in a house of 277 (3 seats being vacant).

As the ULF had the single largest bloc of legislators, Jyoti Basu, the CPI-M leader, staked his claim for invitation to form the Government. But the Governor, S.S. Dhavan, wanted Basu to first prove that he had an absolute majority in the Assembly. In the meantime, the ULDF (except the Socialist Unity Centre having 7 legislators) decided to support a coalition Ministry including the Congress. Accordingly, the 'Democratic Coalition' was formed on 23 March 1971, consisting of all the parties in the Assembly except the ULF parties, the Socialist Unity Centre, Revolutionary Socialist Party and Jharkhand Party, and having a combined strength of 142 in the house of 277 (3 seats vacant). On 2 April 1971 Ajoy Mukherji, the Bangla Congress leader, assumed the office of Chief Minister of West Bengal, this time heading the Democratic Coalition, and the President's rule was revoked. Slender was the majority behind the Ajoy Mukherji Ministry, and it was to receive further setback within weeks of its formation. Two results in the 3 by-elections held in June of that year went in favour of the CPI-M and one in favour of the Congress. Further on 6 June three of the five Bangla Congress legislators led by Sushil Dhara, the party's general secretary, broke away and formed an independent group. Despite this, on 14 June 1971 Ajoy Mukherji expressed confidence in the stability of his Ministry, saying that even if Dhara's group voted with the Opposition, the Assembly would stand evenly divided, with 140 members supporting him and 140 voting with the Opposition.

Meanwhile, terrorism did not abate in West Bengal, not even to the slightest degree, and the Government's task became much more difficult with the unceasing flow of refugees from 'East Pakistan' (at present Bangladesh). On 25 June 1971 Ajoy Mukherji advised the Governor to dissolve the Assembly. Three days later he tendered the resignation of his Ministry, and President's rule was introduced on 29 June 1971. The reason

put forward by Ajoy Mukherji for asking the dissolution of the Assembly was that the refugee problems had become serious and required strong majority.

Departing from the general practice under which the Parliament gets three separate opportunities for approving the President's proclamation—enacting the Bill, authorising delegation of legislative power, and passing the state budget—all the three formalities were taken up together on 23 July 1971 and were disposed of in six and a half hours. Quite understandably, the discussion in the House rigidly followed party lines, the speakers belonging to the ruling Congress Party stoutly supporting President's rule and the Opposition members vehemently censuring it. Many speakers from the Opposition criticised the Governor for not inviting the Opposition to form the Ministry and further, demanded immediate election in the State. The proclamation was approved by the Lok Sabha on 26 July 1971 and by the Rajya Sabha on 22 July 1971. The resolutions for the continuance of President's rule for a further period of six months were passed by the two Houses in their 1971 winter session. The elections to the Assembly were held on 11 March 1972. On 20 March 1972 the President's rule was revoked and the popular Ministry belonging to the Congress Party took office.

### Bihar

The President's rule, for the second time, in Bihar lasted for 229 days, from July 1969 till February 1970. It came to an end with the coming into office on 16 February 1970 of the Daroga Prasad Rai Ministry which was a coalition consisting of the Congress, the Jharkhand Party, the Soshit Dal, and others. It fell on 18 December 1970 as a result of defections of some supporting legislators. Four days later Karpoori Thakur, the SSP leader, formed the Samyukta Vidhayak Dal (SVD) Government which comprised the SSP, the Congress (O), the Jana Sangh, the Swatantra Party, the BKD, the Janata Party, the Soshit Dal and a group of the PSP. This Ministry did not last long either, having been outvoted on 18 December 1971. From now on, the Bihar politics began taking a turn in favour of the Congress,

and a beginning in this direction was signified by the coming into power on 22 December 1971 of the coalition Ministry led by Bhola Paswan Shastri, an independent member of the Assembly. This Ministry, which assumed the name of Progressive Vidhayak Dal (PVD), consisted of the Congress, the CPI, the PSP, the Jharkhand Party and the Soshit Dal—in other words, of major parties, mini-parties and defectors. No one expected such an assortment of parties to have a longer life. Meanwhile, the political environment in Bihar as in the rest of the country was undergoing a perceptible change. The spectacular Congress success in the parliamentary poll held in February 1971 confirmed that the wind was blowing in its favour everywhere. Furthermore, the liberation of Bangladesh in 1971 and the defeat inflicted on Pakistan engendered euphoria among the Congressmen. The time was clearly auspicious for this party to go to the poll and thus cash its popularity with the masses. Accordingly, in January 1972 the Central leadership of the Congress decided to hold elections in Bihar along with several other States in March and immediately instructed Bhola Paswan Shastri to resign and recommend mid-term poll in Bihar. As the Bihar Assembly did not have any party commanding a majority an early election was expected to go in favour of the Congress. On 27 December 1971 the ruling PVD resigned and the Governor, D.K. Barooah, recommended the imposition of President's rule in Bihar. In the words of *The Hindu*, 'At the time, a presidential proclamation could not be issued immediately because of a constitutional hitch and so, Mr. Barooah dissolved the Assembly under Article 174 on December 29.'<sup>6</sup> On 9 January 1972 President's rule was proclaimed in Bihar, this being its third experience since the general election of 1967. As Parliamentary ratification of President's rule was not possible, this body not being in session its validity expired on 8 March, but a fresh proclamation was issued by the President on 9 March 1972. The mid-term poll was held early in March. The President's rule was revoked on 19 March 1972 with the Congress, which gained absolute majority in the Assembly, coming into office.

<sup>6</sup>*The Hindu*, 10 January 1972.

### Manipur

Manipur, a Union Territory, was under President's rule since 16 October 1969, as provided for under the Government of Union Territories Act, 1963. It gained the status of a full-fledged State of the Indian Union on 21 January 1972 and was immediately put under President's rule by invoking Article 356. A State must have a Council of Ministers with the Chief Minister at the head to aid and advise the Governor. As such a political institution was non-existent at the time and could be expected to come up only through the process of an election which, too, needed some time to be organised, the formality of President's rule alone could ensure the constitutionality of the prevalent governmental arrangement in Manipur. Election to the Manipur Legislative Assembly was held in March and a popular Ministry assumed office on 20 March 1972. On the same day President's rule was revoked. Thus, the effective date of birth of Manipur as a State is 20 March 1972.

### Tripura

There is generic likeness between Manipur and Tripura. A Union Territory, Tripura had been under President's rule since 1 November 1972. It acquired the status of a full-fledged State on 21 January 1976 and President's rule had to be imposed on the same day to rationalise the absence of a popular Ministry in it. Election to the Tripura Legislative Assembly was held in March. President's rule was revoked on 20 March 1972 and a popular Government took office. Thus, both the States of Manipur and Tripura were born while in sleep.

### Andhra Pradesh

President's rule in Andhra Pradesh was for an altogether different reason. It attracted the provisions of Article 356 not on account of the all too familiar fickleness of the legislators'

loyalty but because of the regional cult<sup>7</sup> to which both its people and a segment of its political leadership have remained committed, with varying range of intensity, ever since the formation of this State in 1956.

The threat of bifurcation of the State into two separate ones of Andhra and Telengana has been met, ever since it became open and intensified in January 1969, by internal adjustments and reshufflings within the ruling Congress Party and by administrative devices. To appease the separationists, Brahmanand Reddy, the Chief Minister of Andhra Pradesh since 1964, was made to resign from his office in 1970 at the insistence of the Congress High-command.<sup>8</sup> P.V. Narasimha Rao, who succeeded him, could not however succeed in snuffing out the separatist agitation in the two regions and was finally asked by the party's high-command to submit the resignation of his Ministry, and thus pave way for President's rule in the State. Interesting as it may appear, the decision to ask Narasimha Rao to step down was first taken by the Political Affairs Committee of the Central Cabinet. In India on many occasions the roles of a purely party organ like the Congress High Command and of the political executive become in practice indistinguishable: in the process, either of them gets reduced to the level of a merely ratifying body. Constitutionally speaking, the Central Cabinet (or its Committees) cannot issue any directive of this kind to any political party in the land. But this happens because of single party dominance in the country and an unwillingness to keep the roles of governmental and purely party organs distinct and separate. Coming, however, to the present theme Narasimha Rao resigned on 17 January 1973 although his Congress Party continued to command a majority in the State

<sup>7</sup>For a detailed discussion of this problem, see the present author's 'Regionalism in India: Political and Administrative Response', in *The Indian Journal of Public Administration*, Vol. XIX, No. 4, Oct.-Dec. 1973, pp. 441-71.

<sup>8</sup>'It is in keeping with this spirit of service and his deep concern for the unity of the Pradesh (i.e. Andhra Pradesh) that he (Brahmanand Reddy) has offered to step down if this would help to create a cordial atmosphere and keep together the people of Andhra Pradesh and maintain the unity and integrity of the State', said the Prime Minister in her capacity as the *de facto* leader of the party. *The Hindustan Times*, 12 September 1970.

Assembly. The Governor sent his report to the President the same day, and President's rule was imposed in Andhra Pradesh on 18 January 1973. In accordance with the Governor's recommendation, the State Assembly was kept in suspended animation to be reactivated after normal conditions had been restored in the State.<sup>9</sup>

The resolution seeking Parliament's approval of the President's rule came up for discussion in the Lok Sabha on 28 February and was voted the following day. In the course of discussion B. N. Reddy observed, 'I would like to ask this house as to why the situation has been created that 4.5 crore (forty-five million) people of Andhra Pradesh have been made to suffer this President's rule.... The Government there is supposed to be the most stable of all the Governments in the South. It was also a Congress Government with an absolute majority.... Today, President's rule is proclaimed because, it is stated, that the separatist movement has assumed threatening proportions. This President's rule is not a political solution of the various problems that are being faced by the State. To put it in a nutshell, it is only a continuation of the CRP (Central Reserve Police) and military Government that had been perpetrated by the Government of Sri Narasimha Rao which is completely unconnected and unaware of the problems of the people.'<sup>10</sup> The Parliament was again approached for continuance of President's rule for second term of upto six months. In December 1973 the Central leadership of the Congress Party decided in favour of forming the Government in Andhra Pradesh and with this done all the necessary rituals were completed very swiftly. Accordingly on 8 December 1973, J. Vengal Rao was elected as leader of the Congress Legislature Party; the Governor sent his report to the President, recommending revocation of latter's rule. On 10 December 1973 the Congress Ministry formally returned to the State after an absence of nearly eleven months.

<sup>9</sup>Addressing a meeting of the Congress Legislators, Narasimha Rao observed, 'During President's rule the Assembly would be suspended and not dissolved. You will all remain members but not function as such'. *The Times of India*, 18 January 1973.

<sup>10</sup>*Lok Sabha Debates, Fifth Series, Vol. XXIII, No. 2, col. 233-35.*

## Orissa

The party position in the 140-member Orissa Assembly resulting from the elections held in March 1971 stood as follows: Congress 51, Swatantra Party 36, Utkal Congress 32, Praja Socialist Party 4, CPI 4, Jharkhand 4, CPI-M 2, Congress (O) 1, Jana Congress 1 and Independents 4. As is amply confirmed by these figures, Orissa continued to be in love with coalitions. As soon as the election results were out, the Governor initiated the constitutional process by inviting the Congress, the single largest party in the Assembly, to form the Ministry. Unwilling to have a coalition Ministry, the Congress was anxious to secure a complete merger of the Utkal Congress with it in order to obtain the necessary majority and then assume office. This demand was unacceptable to the Utkal Congress. Meanwhile, the Utkal Congress formed a United Front with the Swatantra Party and the Jharkhand headed by Biswanath Das who at that time was not a member of the Assembly and did not belong to any party. On 3 April 1971 United Front having a majority support of 72 (three Independents supporting it) in the 140-member Assembly formed the Government. This Ministry fell in June as a result of floor-crossing by some foot-loose legislators and the Congress-led Ministry came into power, its Chief Minister being Nandini Satpathy, who at the moment was not a member of the Assembly, having come from the Centre. Satpathy's induction into the State level Congress was regarded by many Congressmen as an imposition on the State party by the high-command. Moreover, the Congress could come into power only by encouraging floor-crossing and admitting the defectors from the Swatantra and the Utkal Congress. In January 1972 Harekrushna Mahatab and four of his supporters broke away from the Congress to form a separate group thereby reducing the party's strength to 78 in a House of 140 members. The Utkal Congress, dissolved earlier, was revived on 12 November and commanded a group of 18 legislators under the leadership of Biju Patnaik. On 29 January 1973 the Utkal Congress, Swatantra Party and Harekrushna Mahatab's group formed an alliance, called the Orissa Pragati Legislature Party, which consisted of 47 members. On 29 June 1973, in a desperate bid to stall defection from the Party, the Chief Minister doubled the



size of her Council of Ministers, and appointed Nilamani Routray, the former leader of the Utkal Congress Legislature Party, as Deputy Chief Minister. This did not completely mollify Routray who, as *The Times of India* put it, 'continued to press the Congress High-Command to admit Mr. Patnaik and his men to the Congress. The Party's central leaders were apparently willing to meet Mr. Routray's demand half-way by taking in most of the Utkal Congress MLAs. But they could not bring themselves to excuse Mr. Patnaik's role in the recent by-election in the Cuttack constituency.<sup>11</sup> Any such compromise, however, was not acceptable to Mr. Routray and Mrs. Satpathy seems to have only anticipated his walk over to the opposition by dismissing him from her Cabinet within a few hours of tendering its resignation to the Governor and asking him to dissolve the State Assembly.'<sup>12</sup>

On 1 March the Chief Minister resigned and advised the Governor, B. D. Jatti, to dissolve the Assembly because she wanted to 'get a clear verdict from the electorate for her progressive measures.'<sup>13</sup> Explaining why she chose to resign, she alleged that intrigues by her colleagues, made it 'impossible for us to give undivided attention to the problems of the State.'<sup>14</sup> The Governor immediately prorogued the Assembly which was then in session.

Meanwhile the opposition leader, Biju Patnaik, staked his claim to be invited to form the Ministry, asserting that he was in a position to form a stable Ministry. He alleged that the Chief Minister had denied an opportunity to the opposition to defeat her in the Assembly by resigning when it was in session.

The Governor sent two reports to the President—the preliminary report and the final one both dated 1 March. He recommended dissolution of the Assembly and imposition of President's rule. At 12.30 p.m. on 3 March 1973, the President signed the necessary proclamation to this effect.

<sup>11</sup>Nandini Satpathy contested for the Assembly from this constituency.

<sup>12</sup>*The Times of India*, 2 March 1973.

<sup>13</sup>*Ibid.*

<sup>14</sup>*Ibid.*

## Manipur

The election to the Manipur Legislature held in March 1972 did not give decisive majority to any single party. In the 60-member Assembly the Congress (R) had 17 seats, Manipur People's Party 15, CPI 5, Socialist Party 3, United Naga Integration Committee 3, Congress (O) 1, and Independents 16. Soon after the announcement of the results, the Manipur People's Party, the Socialist Party, the United Naga Integration Committee, the Congress (O), and 10 out of 16 Independents formed the United Legislative Party with Manipur People's Party's Mohammad Alimuddin as its leader. Having a majority of 32 in the House of 60, the Alimuddin Ministry took office on 20 March 1972. In the twelfth month of its career, however, the Ministry faced rough weather as a result of defection by nine of its supporters including two Cabinet colleagues. On 26 March 1972 when a no-confidence motion was being debated in the Assembly the Chief Minister, unwilling to face an adverse vote in the Legislature, went straight to the Governor to tender his resignation and demand dissolution of the Assembly. Explaining the reason for his demand of dissolution of the Legislature, he said no stable Government could be formed in Manipur as there were many 'professional' defectors among the legislators; as many as 10 legislators had crossed the floor in one year and 6 of them had defected and re-defected, some of them six times.<sup>15</sup> Immediately after the resignation of the Alimuddin Ministry, A. Diabo, the leader of the Progressive Democratic Alliance (the opposition), staked his claim to form an alternative Government. The Governor in his report to the President recommended the imposition of Article 356 on Manipur but favoured that the Legislature should be suspended, not dissolved, as it would not be possible to hold elections before the end of the year. The Central Government did not agree with the Governor's recommendation for suspension of the Assembly; its reason being that as both Orissa and Manipur had fallen under more or less similar circumstances, it was invidious to make a distinction between them. Accordingly, on 28 March 1973 the President imposed Article 356 on Manipur and dissolved its

<sup>15</sup>*The Times of India*, 27 March 1973

Assembly. This was the second occasion in the annals of President's rule in India when the Centre acted contrary to the Governor's formal recommendation.

The Lok Sabha and the Rajya Sabha approved the President's rule in the State on 14 May and 31 March 1973 respectively. Approval for further continuance of the rule was accorded by the two Houses in August 1973. Midterm elections were held in Manipur in February 1974 and the Manipur People's Party led a coalition Ministry having a majority of 35 members in the Assembly of 60 into office in March 1974. President's rule was revoked on the same day.

### Uttar Pradesh

The T.N. Singh Ministry could not last beyond March 1971. Early in 1971, U.P. went to the polls to elect its Legislature. The electoral verdict was overwhelmingly in favour of the Congress. Kamalapati Tripathi formed the Ministry on 4 April 1971. Secure behind its massive legislative majority, the Tripathi Ministry was in a position to take up bold measures to ameliorate the many grievances of the people in the State. This, however, was not to happen. The Government showed little evidence of activity and vigour in the management of State affairs. The administration did not indicate many signs of life. Then broke out, in May 1973, the revolt by a section of the Provincial Armed Constabulary (PAC). The State Government swiftly suppressed it, displaying in the process rather excessive ruthlessness and severity. But neither success nor excess proved to be of much help in rehabilitating its image. Above all, Kamalapati Tripathi even seemed to lose the confidence of the Prime Minister, Indira Gandhi, who had emerged after the election of 1971, as the most powerful leader of the Congress. A month after the occurrence of the PAC revolt, it appears that she made up her mind to jettison Tripathi. To be sure, alternative suggestions had been considered: change of leadership in the State, reconstitution of the Council of Ministers by dropping those ministers whose reputations were suspect, etc. Kamalapati Tripathi was reluctant to make any drastic changes in his crew, observing that he could not sack any of his senior

colleagues who had stood by him through thick and thin. Ultimately, the preference went in favour of President's rule in Uttar Pradesh.

On 13 June 1973, Tripathi bowed out of office and he rationalised his exit in terms of the revolt. In his letter to the Governor, Akhar Ali Khan, Kamalapati Tripathi referred to the PAC revolt which had 'wider repercussion', coming as it did in the midst of a period of unprecedented strain through which the State had been passing, mostly because of drought resulting in scarcity of essential commodities and in the shortage of electricity. He continued, 'you (the Governor) would agree that it would be in the paramount interest of the State and the country that the civil and armed wings of the police are now reorganised in such a manner that the force becomes a more effective and disciplined instrument for serving the people. Such a reorganisation will have to be in tune with the overall national requirements of maintaining law and order from the point of view of national security and integrity. No doubt, this exercise could be done by us, as we have been already doing, but we feel that the requirements of the situation would be better served if this responsibility is undertaken by the Centre which can achieve the desired results more quickly and effectively with its resources and expertise. The sharp psychological change which direct Central involvement should bring about will help in the speedy cleansing of the remaining cobwebs of indiscipline. This premise is based on our understanding of the basic interests of the people of our State and the country at large at the present crucial juncture.'<sup>18</sup> Reminding the Governor about his 'comfortable' majority in the Legislature, he recommended a spell of President's rule in UP, with the Legislature kept under suspension. The Governor reported straightaway to the President recommending application of Article 355 in UP. At the time Tripathi stepped down, the ruling party commanded a strength of 272 members in the House of 421. President's rule was introduced in UP on 13 June 1973. In August 1973 the Uttar Pradesh State Legislature (Delegation of Powers) Act was put on the statute book.

The Presidential proclamation was approved by the Lok Sabha on 9 August after three days' discussion. Jyotirmoy

<sup>18</sup>*The Times of India*, 14 June 1973.

Basu was penchant in his criticism of the imposition of President's rule in UP saying: '...there are many standards. In Orissa, there was one standard, and the Assembly was dissolved actually with great hurry, in unseemingly hurry. In UP there is a design to prevent a sure defeat and that is why they (the Centre) have kept the Assembly alive, paying 425 MLAs their salaries and perquisites at the cost of the people....'<sup>17</sup>

Apparently no one mourned the exit of the Kamalapati Tripathi Ministry. Public administration of the State was put to most severe strains during the period of his Government. Allegations of corruption including charges of nepotism flew thick and fast. The political interference with the day-to-day working of the administration acquired scandalous proportions.

The same evening (13 June 1973) the Governor, Akbar Ali Khan, asserted that it would be his endeavour to discharge the new responsibilities of running the administration of the State with sincerity and devotion and that he would expect the same from all officials of the Government.<sup>18</sup> The following day he convened a press conference, appealing to the press to function as a link between the Government and the people in the absence of the people's representatives, to see to it that the food distribution system—which was the most critical problem confronting the State at the moment—served the people well. He proposed to introduce major administrative changes in the State, details of which he promised to work out with his advisers.<sup>19</sup> Earlier, addressing a meeting of secretaries to the Government he pledged to take drastic action against corrupt and inefficient civil servants.

The Presidential rule in UP was followed by a despatch from Delhi of a team of three advisers, all senior members of the ICS who had served in UP earlier in different capacities. The public administration of the State was in a shaken state when the advisers took over. It had not recovered from the trauma of the PAC revolt. Moreover, the State was in the grip of a severe drought. The foremost problem before the advisers was to tackle these problems besides many others concerning

<sup>17</sup>*Lok Sabha Debates*, Fifth Series, Vol. XXX No. 13, 8 August 1973, col. 298.

<sup>18</sup>*The Times of India*, 15 June 1973.

<sup>19</sup>*The Times of India*, 16 June 1973.

administrative reforms. The power engineers were restive because of non-implementation of the assurances given to them by the popular regime and so was the case with students and teachers. The advisers drew a plan of action and listed their priorities. 'By and large', wrote *The Hindustan Standard*, 'the performance of the advisers during all these months has been quite good. They worked silently, cautiously, without much fuss or fanfare and without causing controversies.'<sup>20</sup> Even then the advisers' Government came under pointed criticism by politicians as well as legislators to whom a popular regime was much more 'profitable' in every sense.

The first task of the State Government under the Presidential rule was to tone up efficiency in public administration. The advisers' council finalised measures to ensure 'clean and efficient administration' by weeding out corrupt and incompetent officials. There were transfers of civil servants having 'dubious reputation'. The advisers addressed themselves to the task of preparing a scheme for decentralisation of administration by delegating power to the divisional commissioners and the district collectors. It was proposed to strengthen the office of the divisional commissioners as effective instruments of administration as against their earlier position of that of a post-box between the district and the Secretariat. They were now proposed to be clothed with both administrative and financial powers so that the work got disposed of quickly and the Secretariat, was relieved of the unnecessary volume of work.<sup>21</sup>

The President's rule in UP was revoked on 8 November 1973 on the receipt of the Governor's report (reproduced in Appendix III) and H.N. Bahuguna was sworn in as the Chief Minister.

### Gujarat

The election to the Gujarat Assembly held in 1972 gave overwhelming majority to the Congress with a strength of 137 members in a House of 167, and it assumed office under the

<sup>20</sup>*The Hindustan Standard*, 19 October 1973.

<sup>21</sup>*Indian Express*, 26 June 1973.

Chief Ministership of Ghanshyambhai Oza. Though victorious at the hustings, the party was not at peace with itself, being riven with internal dissensions and in the middle of 1973 Oza was replaced by Chimanbhai Patel. Meanwhile, the food situation in the State was deteriorating and so grave became the problem that rioting occurred in Gujarat in January 1974. The disturbances began with a protest by the students against increased college food bills and their demands initially were very modest and sectional. As the Government did not take any action on them, the protest progressively acquired the intensity, range and scale of a mass movement which began demanding the resignation of the Chief Minister himself whose alleged corrupt practices had directly contributed to the rise in the food prices as well as the dissolution of the State Legislature. The popular movement became widespread and was supported by student organisations, trade unions, opposition parties and even a section of the ruling Congress. Rioting began in many towns in Gujarat and grain shops were being looted and set fire to by agitators. To prevent such occurrences, the police repeatedly opened fire on the rioters, which further aggravated the situation in the State. In short, Gujarat was convulsed into a massive movement of unprecedented scale and nature, demanding resignation of the Ministry and dissolution of the Assembly. Meanwhile, a section of the ruling party including some ministers began demanding the Chief Minister's resignation. On the latter's refusal some ministers even resigned from the Ministry.

Forced by party dissidents as well as by progressively worsening circumstances, Chimanbhai Patel tendered the resignation of his Ministry to the Governor on 9 February 1974. On the same evening the President imposed Article 356 on Gujarat but kept the Assembly under suspension—without, it is alleged, waiting for the customary Governor's report.<sup>27</sup> The protest which began as an anti-price stir and grew into anti-Chimanbhai Patel agitation was to climax into an anti-Assembly movement. New Delhi's decision to keep the Assembly in a state of suspended animation served only to raise the people's

<sup>27</sup>See R.K. Patil's article on 'Sharp Inroads In Gujarat,' published in *The Tribune*, 8 April 1974.

doubt about the credibility of its action. For the popular upsurge, especially in its advanced stage, was directed not only against the Chimanbhai Patel Ministry but also against the entire system which made possible the coming into power of such a discredited regime. The Centre, however, decided to resist such a demand, its stand being not to give in to mob violence. But the state legislators, clearly realising that the Assembly was beyond retrieve, were resigning their seats. It is significant that as many as 95 legislators in a House of 168 which included 68 Congressmen tendered their resignation. Even Chimanbhai Patel, who was in the meantime asked by the party's Central leadership to quit as the leader of the Congress Legislature Party, resigned from the Assembly along with 12 of his supporters, thereby smashing any hope of revival of the Assembly.

On 11 March 1974 the Lok Sabha discussed and passed the resolution regarding the proclamation of President's rule in Gujarat. The Home Minister, Uma Shankar Dikshit, told the House that the dissolution of the Assembly would be considered only after normalcy was restored and intimidation and violence stopped. The entire opposition staged a walk out from the Lok Sabha as the Home Minister moved the resolution for approval of the President's proclamation.

The resolution was passed, as expected but the internal situation in Gujarat was not to be regulated by it in any way. On the same day in Ahmedabad Morarji Desai began an indefinite fast demanding dissolution of the Legislature. On 15 March 1974 the Centre dissolved the Gujarat Assembly, ultimately bowing to the inevitable.

This, however, was not the end of Gujarat's travail. The President's rule was twice extended, first on the ground that a fresh delimitation of constituencies on the basis of 1971 census had to be completed before the election was held,<sup>23</sup> and second time on the plea that the State was in the grip of an 'unprecedented' drought and election at this stage would interfere with the relief operations.<sup>24</sup> Safe behind its majority, the parliamentary approval of extension of President's rule was not

<sup>23</sup>*Lok Sabha Debates, Fifth Series, Vol. XLIV, No. 37, 7 September 1974, col. 99.*

<sup>24</sup>*Lok Sabha Debates, Fifth Series, Vol. XLVIII, No. 9, 27 February, col. 296-99.*



difficult for the ruling party. But the reasons advanced by the Government were hardly convincing. These plainly looked like dilatory tactics on the part of the ruling party and appeared to be an illustration of how constitutional duties were on occasions getting subordinated to political considerations. The delay in the return of democratic rule again revived a popular agitation in Gujarat. On 1 April 1975 Morarji Desai threatened to go on a 'fast unto death' from 7 April if by then New Delhi failed to announce a time table for holding elections to the State Assembly. As the plan for election was not announced, he began his fast from the announced date. On 13 April the Prime Minister announced to hold election to the Gujarat Assembly 'around' 7 June 1975. On 18 June 1975 the President's rule was revoked and a popular Ministry under Babubhai Patel came into power in Gujarat.

### Nagaland

The party-wise position in the 60-member State Assembly after the election held in February 1974 was as follows: the United Democratic Front (UDF) 25, Nagaland Nationalist Organisation (NNO) 23, and Independents 12. Supported by 32 legislators, the United Democratic Front formed the Government under the Chief Ministership of Vizol. On 10 March 1975, the Government lost its majority as a result of defections by some of its supporters and consequently it resigned. The NNO, strengthened by the defectors, then formed the Ministry headed by John Bosco Jasokie. Consequent upon the defectors re-defecting, it too lost its majority within ten days of its coming into power. The Assembly which met on 20 March 1975 was adjourned amidst confusion and a trial of strength could not take place. The Governor, L.P. Singh, recommended to the President to proclaim his rule in the State but to keep the Assembly suspended. According to him '8 legislators had defected twice, another eight crossed the floor once, while two others switched their loyalties thrice.'<sup>25</sup> On 22 March 1975 the President issued the necessary proclamation. As a result, Nagaland came under

<sup>25</sup>*The Hindustan Times*, 23 March 1975.

Article 356 and the Assembly was kept under suspension. On 20 May 1975 the Assembly was also dissolved.

The President's rule in Nagaland was extended for a further period of six months from 26 March 1976. The necessary resolution was passed by the Rajya Sabha on 9 March and the Lok Sabha on 11 March 1976. Justifying the extension, the Home Minister said that the time was not yet ripe for holding elections in Nagaland; the implementation of the accord between the underground Nagas and the Central Government signed in November 1975 had reached a crucial stage; the modalities of deposit of arms by the underground were being worked out, and holding of elections might hamper the process. A situation which prevailed in Nagaland for the last 20 years was coming to an end and 'we should not do anything to vitiate the atmosphere by holding early elections. Peace and tranquillity in the area should continue.' Nor were the two major parties of Nagaland, the UDF and the NNO, were anxious for early elections.<sup>24</sup> Some opposition members, however, criticised the move and favoured an early return of popular government in the State.

### Uttar Pradesh

Uttar Pradesh came under a brief spell of President's rule, for the fourth time, in the winter of 1975-76, this step being precipitated by purely factional politics within the ruling State Congress Party. H.N. Bahuguna, the Chief Minister, was under constant attack from the dissident party members but continued in office as he enjoyed the confidence of the Central party leadership, especially the Prime Minister. But on 29 November 1975 the Prime Minister apparently wished him to step down, and so on the same day he resigned. The Governor, M. Chenna Reddy, recommended the introduction of President's rule in the State as the Congress Party did not elect Bahuguna's successor. On 20 November 1975 the President's rule was introduced in UP but the Assembly was kept under suspension. On 21 January 1976 the Central leadership of the Congress Party

<sup>24</sup>*The Hindustan Times*, 18 March 1976.

sponsored Narain Dutt Tiwari, Finance Minister in Bahuguna's Cabinet, for the Chief Ministership of Uttar Pradesh, and on the following day the President's rule was revoked.

### Tamil Nadu

Tamil Nadu, which had the Dravida Munnetra Kazhagam (DMK) as the ruling party since 1967, came under President's rule on 31 January 1975—exactly fifty days before the normal five-year term of the State Assembly was due to expire. The DMK commanded majority support in the Assembly but the decision to dissolve the DMK Government and introduce President's rule was taken by the Central Government on the ground of widespread political corruption in the State. On 31 January K. K. Shah, the Governor sent a Report reproduced in Appendix IV on the Tamil Nadu situation to the President who forwarded it to the Prime Minister for advice. The Cabinet endorsed the move to impose Article 356 on Tamil Nadu, and immediately thereafter the President issued the proclamation reproduced in Appendix V (dismissing the popular Government) and dissolving the Assembly. The five-year term of the Assembly would have automatically<sup>27</sup> expired on 21 March 1976 but the Central Government did not wish to wait for 50 days more because of the serious situation in Tamil Nadu in terms of the Governor's Report.

The Governor reported that the DMK Government had indulged in serious acts of maladministration, corruption and misuse of power for partisan ends, setting at naught all canons of justice and equity. He complained that it had disregarded the instructions of the Centre in relation to the emergency while misusing the emergency powers for its own purposes and, moreover, under the guise of greater State autonomy it held out 'veiled threats of secession'. Finally, he called for the appointment of a high-power commission to inquire into allegations of corruption and misuse of power made against the DMK ministers. It was for the first time that the Central

<sup>27</sup>The term of the Assembly can be extended by Parliament as it did in the case of the Kerala Legislative Assembly in 1976.

Government ordained for itself the role of some kind of the nation's conscience-keeper and took a State Ministry to task by summarily dismissing it on the ground of corruption and secessionist ambition.

On 3 February 1976 the Centre appointed a one-man Commission consisting of R. S. Sarkaria, a judge of the Supreme Court, under the Commission of Inquiry Act, 1952, to inquire into and report by 1 February 1977 the allegations against M. Karunanidhi, the former Chief Minister of Tamil Nadu, and some members of the DMK Ministry removed from office. This was the first time in the history of President's rule that a Governor made such a recommendation, and also that the Centre ordered such an inquiry.

The Lok Sabha and the Rajya Sabha approved President's rule in Tamil Nadu on 10 March and 8 March 1976 respectively. Some Members of Parliament belonging to Congress (O), CPI-M, DMK and Socialist Party protested against the President's rule. Era Sezhan, the DMK leader in the Lok Sabha, was critical of the resolution and was opposed in principle to the Central Government appointing a commission of inquiry against State Governments in a federal set-up.<sup>28</sup>

### Gujarat

Closely following Tamil Nadu on its heel was Gujarat which had gone to the polls only nine months ago to elect its State Legislature. As a result of the mid-term elections held in June 1975 a coalition of non-Congress parties, the Janata Front, under the Chief Ministership of Babubhai Patel, assumed power on 18 June 1975—a week before the proclamation of emergency in the country. In the 179-member Assembly the Janata Front had 86 members drawn from its five constituents—the Congress (O), the Jana Singh, the Bhartiya Lok Dal, the Socialist Party and the Rashtriya Mazdoor Paksha—and was supported by the 12-member Kisan Mazdoor Lok Paksha.

Despite the common programme of action agreed to by all, the constituent units of the Congress (O)-led Ministry were

<sup>28</sup>*The Hindustan Times* 1976.

following diverse ideologies and nursing conflicting interests that the coalition was bound to disintegrate before long. And it did begin tottering when the Kisan Mazdoor Lok Paksha withdrew its support to it in February 1976. On 21 February the Chief Minister felt it necessary to withdraw a vital tax proposal, which was an indication of the vulnerability of the coalitional regime. The Janata Front Ministry headed by Babubhai Patel suffered a defeat on 12 March 1976 when its budget was not passed in the Assembly. Following his defeat, the Chief Minister resigned. Recommending imposition of Article 356 on the State, and keeping the Assembly suspended, the Governor pointed out in his report to the President: "To my mind the position is fluid and no party or combination of parties is in a position at present, or in the immediate future, to form a stable Government."<sup>22</sup> President's rule was imposed on Gujarat on 12 March 1976, this being the third time in less than five years when Gujarat came under Article 356. The State was under the President's rule for nearly 10 months in 1971-72 and again for about 16 months in 1974-75.

## Governor: His New Role

No institution can be correctly studied by a mere perusal of the concerned provisions of the Constitution, and this is particularly true with the office of the Governor. He is appointed by the President for a term of five years and is under an oath to 'faithfully execute the office of Governor', 'to protect and defend the Constitution and the law' and to devote himself 'to the service and well-being of the people of' his State. The Governor is equipped with a Council of Ministers with the Chief Minister at its head to aid and advise him. In accordance with the well-known convention of the parliamentary democracy, however, the Governor is ordinarily a constitutional head acting on the advice of the Council of Ministers.<sup>1</sup> At the same time the Constitution visualises situations where he is to act in his discretion and not on the advice of the Council of Ministers<sup>2</sup> and, moreover, what is his discretionary field of activities is also left to his discretion.<sup>3</sup> In the initial period of about fifteen years during which the Constitution was functioning within the framework of a single party dominance, the only matter in which he could

<sup>1</sup>This is a general arrangement although Governors of Assam, Andhra Pradesh, Maharashtra, Gujarat and Sikkim have been clothed with special responsibility for certain purposes in the discharge of which they do not have to act on the advice of the Council of Ministers. For a detailed discussion of this aspect, see *Report of the Committee of Governors* (New Delhi: President's Secretariat, 1971), pp. 18-20. This Report is reproduced in the present author's *The Administrative Reform Commission* (Agra: Lakshmi Narain Agarwal, 1972).

<sup>2</sup>Article 163 (1).

<sup>3</sup>Article 163 (II).

act in his discretion was one of inviting the leader of a political party commanding a majority in the Legislature to form the Government. Here again the Governor was left with hardly any discretionary choice as he had no option but to summon the leader of the majority party if—as was generally the case—its majority was clear. It was only when the party position in the Legislature became fluid, as it happened in several States following the general election of 1967, that the Governor was called upon to exercise his discretion and in the process his role in this matter became real and complex. What was more, his discretion in the selection of the Chief Minister continued to be final. Dharam Vira's action in inviting P.C. Ghose to form the Government in West Bengal after the dismissal of the Ajoy Mukherjee Ministry was challenged in the Calcutta High Court. The verdict supported the gubernatorial action observing: 'In appointing a Chief Minister...the Governor must act in his own discretion. It is for him to make such enquiries as he thinks proper, to ascertain who among the members of the Legislature ought to be appointed the Chief Minister and would be in a position to enjoy the confidence of the majority in the Legislative Assembly of the State....The exercise of this discretion by the Governor cannot be called in question in writ proceedings in this Court.'

### Right to Summon the Legislature

Under the existing constitutional arrangements the Governor summons the Legislature on the advice of the Chief Minister. As the Constitution permits an interval of as many as six months between two sessions of the Legislature some Chief Ministers have lent themselves to the charge of taking unfair advantage of such a long intermission by not convening the Legislature and thus continue in power even though they, in the meantime, lost their support. At present a Governor is left with no alternative but to persuade his Chief Minister to convene the State Assembly; if the latter does not agree, he

<sup>4</sup>*Mahabir Prasad Sharma, V. Prafulla Chandra Ghose et al., All India Reporter, Calcutta, 1969, p. 198.*

has only one weapon, admittedly of an ultimate category, available to him—that of dismissing the Ministry. But by so behaving he exposes himself to a criticism of being arbitrary in his action if not acting under instructions from the Centre. Far better way, therefore, is formally to clothe the Governor with the power to summon the Assembly at his discretion even vetoing the negative advice, if any, of the Chief Minister, and thus have the latter's majority verified. The Administrative Reforms Commission (1966–70) also made a similar recommendation. It observed: 'If a doubt arises whether a Ministry has the confidence of majority in the Assembly the wisest course would be to have it settled by summoning the Assembly and to leave to the Assembly the verification of the support claimed by the Ministry.... We suggest that the Governor should try to persuade the Chief Minister to agree to the Assembly being summoned as early as possible and to face it. If the Chief Minister still refuses to agree to advise the summoning of the Assembly, the Governor should summon the Assembly for the purpose of obtaining its verdict on the question as to whether the Council of Ministers enjoys the confidence of the Assembly.'<sup>5</sup>

### Governor's Interpretation of Article 356

A situation of political flux in a State may give rise to a complex of events in which, according to the gubernatorial analysis, the Government of the State cannot be carried on in accordance with the provisions of the Constitution. This culminates in the invoking by the President of Article 356 of the Constitution on receipt of the Governor's Report 'and other information'<sup>6</sup> received by him. Governor's interpretation of

<sup>5</sup>Administrative Reforms Commission, *Report on Centre-State Relationships* (New Delhi: Manager of Publications, 1969), p. 28.

<sup>6</sup>These words are invariably used in the proclamation by the President. It is to be noted that in the case of President's rule in Punjab in 1951, which was the first occasion when Article 356 was invoked, the President based his decision on 'a report of the Governor' and omitted, 'or otherwise' or 'other information'—the words which have been part of the text in all subsequent proclamations.



such an occasion warranting the imposition of Article 356 embraces a fairly wide range of circumstances, as is borne out from the following few illustrations.

(1) *Andhra (1954)*: After the defeat of the coalition Government headed by T. Prakasam, the Communist Party—the second largest party in the Assembly, pressed its claim to be invited by the Governor to form the Government. The Governor did not explore the possibility of forming an alternative Government in the State and instead immediately recommended the dissolution of the Assembly and imposition of President's rule.

(2) *Kerala (1959)*: The ruling party, the Communist Party of India, enjoyed a clear majority in the Legislature but there was fairly widespread popular agitation against the Government. The Governor recommended President's rule on the ground that there was virtual abrogation of rule of law by the Communist Government.

(3) *Kerala (1965)*: No single party secured majority in the Legislature after the election. While the Governor consulted various parties on the question of formation of a Government he did not formally invite the single largest party, the Communist Party, to form the Government. Guided by his assessment that no party was in a position to form a Ministry, he recommended President's rule.

(4) *Rajasthan (1967)*: The Governor invited the single largest party, the Congress, to form the Government ignoring the claims of United Front, a coalition of parties formed immediately after the announcement of the election results, which had a majority of 92 in the 184-member Assembly. Even when the Congress decided not to form the Government the Governor did not invite the United Front but recommended President's rule. The Assembly was kept suspended.

(5) *Haryana (1967)*: The Samyukta Vidhayak Dal continued to command majority in the Legislature. The Governor recommended dismissal of the SVD Ministry and promulgation of the President's rule on the ground that defections in the Assembly became the order of the day, administration stood paralysed and the Ministry was interested only in maintaining itself in power.

(6) *Tamil Nadu (1976)*: The ruling DMK continued to

enjoy unwavering majority in the Assembly but the Governor recommended President's rule in the State, charging the Ministry with corruption, abuse of powers and secessionist activities.

The Governor has thus recommended President's rule in the event of (i) a mere defeat of a party or a coalition in the Assembly, without any attempt at any Ministry-making; (ii) voting out of power of a party in the Assembly, and explicit inability of other parties to form an alternative Government in the State; (iii) frequent floor-crossing of legislators, and (iv) alleged corruption of the ministry. The Governor's discretion is thus wide enough, and the Tamil Nadu episode has definitely widened the scope and freedom of Governor's actions. Indeed, the Governor's office is much more open-ended than is generally surmised. As a Member of Parliament put it, 'There is a very serious lacuna in the Constitution in the sense that it allows a Governor to function according to his whims and fancies. He can decide on anything as he likes. There is no forum for testing his action. They do not allow the Assembly to meet to test whether this party or that party got majority or minority. It is being decided by the Governor.'

So undefined and unstructured is the discretionary power of the Governor that the manner of its exercise has become a subject of public controversy on many occasions, and a demand has been made to set bounds to his discretion. The Administrative Reforms Commission (1966-70), for instance, wrote, 'The Constitution lays down that the Governor is the sole judge in determining what does and does not fall under his discretion.... In the light of the new development and complicated situations, a clear enunciation as to the method and manner of exercise of discretionary powers of the Governor affect some of the vital issues in the functioning of democratic Governments in the States, some guidelines should be evolved to enable exercise of these discretionary powers by the Governor for the purpose of preserving and protecting democratic values.\*' Writing under the title 'How Not To Govern,' *The Statesman*

\*Era Sezhiyan's Speech in the Lok Sabha. *Lok Sabha Debates*, Fourth Series, Vol. XVIII, No. 4, 25 July 1968, col. 1564-65.

\*The Administrative Reforms Commission, *Report on Centre-State Relationships* (New Delhi: Manager of Publications, 1969), p. 25.

rightly commented, 'No Governor should interfere with the democratic process when the Chief Minister of the day is prepared to face the Assembly without delay. Where a Chief Minister drags his feet in summoning the Assembly, it would be desirable to arm the Governor with the discretion to fix a date for the Assembly session rather than with the power to send the Government and the Assembly packing even temporarily. It goes without saying, however, that the discretion to summon the Assembly, like any other discretion allowed to Governors under the Constitution, should not only be exercised fairly and impartially but also seem to be exercised fairly and impartially.'<sup>9</sup> No such measure by way of ground rules for Governors has been completed or even contemplated. But in 1970 the President wrote to all the Governors suggesting a course of action by way of help to them in their decision-making process. The President's circular to Governors dated 30 March 1970 said, 'The Governor of the State may occasionally consider it advisable to obtain the opinion of the Attorney-General of India on matters involving the interpretation of the provisions of the Constitution relating to the powers and duties of the Governor except those involving Centre-State relationship. This may be done by referring the matter to the President's Secretary for taking action to obtain the opinion of the Attorney-General.... In future the Governor may, if he should consider it advisable to seek the opinion of the Attorney-General on such a matter involving interpretation of the Constitution, refer the matter to the President's Secretary for taking action to obtain the opinion of the Attorney-General through the Law Secretary.'<sup>10</sup>

This also brings to the fore the question of proper appointment of Governors. No longer should this office be regarded as a sinecure or a nursing home. As Governors are increasingly called upon to exercise their own judgment and take decisions of the highest importance, they should be persons having reputation for independence and integrity so that the requisite degree of impartiality and objectivity which are expected of this office do not get impaired.

<sup>9</sup>*The Statesman*, 8 November 1970.

<sup>10</sup>*The Times of India*, 1 April 1970.

The Governor's is an office with considerable ambivalence. Appointed by the President, he has to search constantly for a working reconciliation between his loyalty to his selector and to the Constitution which he is supposed to defend. Even when Article 356 is imposed on a State, the power of governance gets vested in the President and that of legislation (and taxation) in the Parliament. It is only through an order, of course issued simultaneously with the President's proclamation, that the newly vested powers in the President are exercisable *also* by the Governor 'subject to the superintendence, direction and control of the President.' But Parliament's authority remains intact, in the sense that it is not delegated to the Governor. It ought to be noted that at the time Punjab fell under President's Rule in 1951 there was serious thinking in some quarters that the President could discharge the responsibility of administering the State through the Central Cabinet but had no authority to delegate it to the Governor.<sup>11</sup> This course, however, was not pursued, and Governor comes into the picture directly, prominently and pervasively. As the President is only a nominal head, and stands for the Central Government, which is a party Government, the Governor's office is apt to remain subject to political pressures, direction, even control from above, more so under times of stress such as President's Rule. The Governor's discretion has on occasions turned into the Centre's discretion especially in the context of Article 356, and in the process this office has become more politicized tending more to subserve narrow ends of the political party at the Centre than the purposes visualised by the framers of the Constitution. A Governor anxious to remain loyal to his oath seeks an honourable balance between Central accommodation and constitutional duties of his office. The true remedy lies in the Governor not succumbing to Central pressures and in the Central Government not becoming too much demanding in its relationship with the Governor but instead helping in evolving sound conventions, practices, customs and protocol in this field. It is not without significance that he is appointed by the President by warrant under the latter's hand and seal.

The Governor's Report to the President was, until 1962,

<sup>11</sup>*The Statesman*, 19 June 1951.

treated as a secret document, and thus was not made public. While seeking parliamentary endorsement of the President's rule, the Home Minister used to give an account of the factors and circumstances leading to the promulgation of President's rule in the State. Most often, the Home Minister's statement was itself a summary of the Governor's report but as a rule, the latter was not placed in Parliament. Defending this practice in the face of opposition demand to make available the Andhra Governor's report, K.N. Katju—the Home Minister, told the Parliament in 1954, 'The report of the Governor to the President is a document of a very secret and confidential nature, and it will not be in the public interest to produce it.'<sup>13</sup> This appears to be an untenable position. As it is a constitutional obligation of Parliament to accord its approval to the President's rule in a State, it must have access to the Governor's report before it makes up its mind whether it should give its endorsement to that action or not. The opposition has consistently demanded the publication of the Governor's Report. Since the sixties the Government has been tabling in each House of Parliament the full text of the Governor's report along with the Presidential proclamation when it seeks Parliamentary approval.

The Governor emerges as a functioning or executive Governor, without the ordinance making powers. When Article 356 is imposed on a State, all powers of governance, as already mentioned, get vested in the President but the latter delegates the executive authority to the Governor and therefore what is constitutionally called President's rule gets vested in its day-to-day functioning into the hands of the Governor.

This confronts him with a situation of potential role/conflict. President's rule being Centre's rule, the Governor may be—and, indeed, is being—increasingly looked upon as New Delhi's agent and mouthpiece. But the Constitution and his oath commit him to a particular course of action. There is no inherent hostility between these two roles but where politics is not sufficiently enlivened with understanding and adjustment, his dilemma becomes indeed deep. He ought to shun what A.P. Jain, the Governor of Kerala, did in 1966 when that State was under

<sup>13</sup>*Lok Sabha Debates, Part II, Vol. VIII, No. 5, 19 November 1954, col. 409.*

President's rule. When the then Prime Minister Lal Bahadur Shastri suddenly passed away, the battle of succession between Indira Gandhi and Morarji Desai ensued; and A.P. Jain, oblivious of his gubernatorial responsibilities, rushed to Delhi actively to campaign on behalf of one of the contenders for the office of the Prime Minister. His view that he should be treated like an 'American Governor'<sup>13</sup> was an instance of misreading of the Indian Constitution. Dharam Vira, who as functioning Governor of West Bengal and Mysore went through the mill, has the following to say in this regard: 'My personal view is that there is no reason at all for the Governor to act during the President's rule as if he was subordinate to the Ministries at the Centre. In matters requiring legislation the position is clear. Such proposals have to be sent to the Centre for appropriate action. In day-to-day administration, however, the Governor should be free to act independently and on his own. It is another matter to keep the Centre informed in regard to all important developments and decisions. This is a must. But in dealing with these developments or in taking decisions the normal rules and procedures of the State are to be followed and Central directions have no place there. If for all important administrative acts, Central directions and approval were necessary an impossible situation involving fatal delays might develop besides embarrassing the Governor constitutionally. In actual practice, however, with goodwill on both sides, no difficulties need arise and the work should proceed smoothly without any friction or irritations on either side.'<sup>14</sup>

With the Council of Ministers gone, the rules of business in the Government are suitably amended and issued. In short, the Governor assumes the place of the Council of Ministers. He begins attending conferences such as the National Development Council and the Chief Ministers' Conference. The official papers begin coming to him for his decisions and he directly issues instructions to the personnel in the administrative hierarchy on the manner of transacting the business of Government. The reality of this changeover is eloquently proved by his attending

<sup>13</sup>*The Tribune*, 10 March 1967.

<sup>14</sup>Dharam Vira, 'Changed Role of Governors', *The Motherland*, 22 December 1972.

the office regularly in the secretariat—something which in normal times he never does.

### Models of Functioning Governors

But there is no single model of functioning Governors under the President's rule. Indeed, one may construct two typologies of this office as it has evolved since 1950. Some Governors, especially those drawn from the administrative cadres, have functioned without advisers, and they have directly exercised the effective authority. The first President's rule—in Punjab—passed off without any advisers to the Governor, C.M. Trivedi. Dharam Vira did not have any advisers in both West Bengal and Mysore. Shriman Narain Agarwal, the Governor of Gujarat, did not ask for any advisers for the first few months. In all such instances the official papers come to the Governor directly from the chief secretary, and he functions as the Chief Minister and the Council of Ministers rolled into one.

The second typology is of the Governor having advisers. Historically speaking, Governors having background of public life belonged to this typology. But of late the installation of advisers has apparently become an integral part of the exercise of President's rule. The Governor of Nagaland (1973) is a retired civil servant but is assisted by advisers. The appointment of advisers is accompanied by a formal distribution of portfolios among them, and they in effect take the place of the Ministers, getting official papers directly from the secretaries to the Government. They, thus, become an effective level in the regular administrative hierarchy and only such categories of papers as are enumerated in the Rules of Business get referred to the Governor for his decisions. If, however, there is a Principal Adviser, as was the case in West Bengal with S.S. Dhawan as Governor, he virtually functions as the Chief Minister and the Governor is in practice little more than the constitutional head although constitutionally speaking he can overrule the advisers—just as the President has the authority to set aside any action of the Governor. Some Governors have convened regular meetings of the advisers in which they used to preside—very much like the meetings of the

Cabinet thus attempting to evolve the Ministerial style of decision-making. The exact position of the Governor in the resultant Governor-in-Adviser form of Government depends, however, upon the allocation of work under the Rules of Business; his position nevertheless is not the same as of his counterpart of the first typology discussed above. But effectiveness is not exclusively institutional; it also depends upon the personality of the Governor himself, his rapport with the Central political leadership, etc.

Apropos of the typology, the prestige and power of this office have suffered erosion over a period of time. The emerging impression is that the Governor visits and consults New Delhi before he sends in his report and gains the tacit approval of the Centre. As early as 1967, K. Santhanam referred to 'the practice of practically instructing the Governor, if not ordering him to send such a report'<sup>18</sup> recommending President's rule. On three or four occasions we have had instances of Governor's report following the imposition of President's rule. Even the earlier convention of Governor indenting his advisers has become rusty and the Centre has now of its own accord been appointing them.

### Scope of Article 356

President's rule should be imposed only in the last resort and that too under only two circumstances, one being a situation of near complete breakdown of law and order in the State and another one when no political party or coalition of parties (including Independents) is able to form a Government, even if not very stable. The latter circumstance needs elaboration. In case a ruling party apparently loses its majority in the Assembly and wants to convene the Assembly on a date later than what the Governor thinks appropriate it is always desirable to prefer this to an abrupt imposition of President's rule. (Indeed, the Governor needs to be armed with the power to summon the Assembly in his discretion in case when the majority of the ruling party is in doubt.) Similarly, when a Ministry falls, the

<sup>18</sup>K. Santhanam, 'Powers and Obligations of Governors', *The Statesman*, 17 April 1976.



Governor should give an opportunity to the opposition to form the Government. That B.D. Jatti, Governor of Orissa, did not invite the opposition when the Nandini Satpathy Ministry was voted out of power in 1973 rightly incurred judicial strictures. In the case called *Bijayananda Patnaik and 73 others versus President of India and Others* the High Court of Orissa observed on 22 October 1973:

...the Governor examined the claim of the Pragati Party<sup>16</sup> of having 72 members on withdrawal of 25 members from the ruling party.<sup>17</sup> He noticed that the figure '72' had been reduced by two within a few hours. After taking into consideration various aspects...he came to the conclusion that there is no guarantee that the present majority claimed by Sri Biju Patnaik and his supporters will remain stable and if a Ministry is allowed to be formed under the leadership of Sri Patnaik, the said Ministry might not remain for a long time. Thus, the Governor did not call the leader of the Opposition to form the Ministry not because they had no majority but because he expressed that the majority might fall at any moment and there would be no stable Ministry. In arriving at this conclusion the Governor did not honour the convention prevalent in Great Britain in the matter of formation of the Ministry. The breach was in the following way. On the resignation of the Ministry of Nandini Satpathy having lost its majority support in the Assembly, the Governor should have called the leader of the Opposition to form the Ministry. It was for the latter to say whether he would be able to form a Ministry or not. The leader of the Opposition asserted that he had a majority support and that is confirmed by the Governor's own finding that he had support of 70 members. Even assuming that the Governor wanted to test the exact support he should have called upon the leader of the Opposition to test his strength in the House itself which was in session. This was exactly what the Governor of West Bengal did when he dismissed the

<sup>16</sup>A coalition of parties.

<sup>17</sup>It was the Congress Party under the leadership of Nandini Satpathy.

Ministry of Ajoy Mukherjee in November 1967.... The Governor is not concerned whether the Ministry could be stable in future. If the Ministry which would have been formed by the leader of the Opposition would have fallen afterwards, the Governor would have been justified to recommend for the President's rule if at that time no other person was in a position to form an alternative Ministry by having majority support.<sup>18</sup>

While the Governor should take a generous view of the second factor he should not be liberal in interpreting the situation relating to breakdown of law and order. For, it permits a wide measure of subjectivity and moreover is prone to political interpretation when the State level ruling party is different from the one at the Centre. Indeed, a wise Governor is he who reposes trust in the wisdom of the political parties and the electorate. Democracy is a self-correcting, self-purifying experience, and Raj Bhawans are by no account its quality control rooms.

Thus viewed, a political party must continue in power so long as it commands majority in the Legislature and in case of fall of this Ministry, another party which could ensure majority legislative support should be invited to form the Government. It implies that to dismiss a Ministry having legislative support on any ground such as corruption or attempt—veiled or otherwise, at 'secession' is an act of over-interpretation of his role by the Governor.

### Advisers

In the exercise of functions and powers while Article 356 in the force, the Governor may appoint Advisers to assist him. This practice dates back to the period of the British Raj. In Bombay—one of the Section 93 provinces during the Second World War—the Governor had three Advisers, Sir Henry

<sup>18</sup>The judgement was reproduced in *Journal of the Society for Study of State Governments*, Vol. VI, No. 4, October-December, 1973, pp. 249-84.

Knight, Sir Charles Bristow and Sir Godfrey Collins,<sup>19</sup> all being members of the ICS. The United Provinces, another section 93 province, had Tennant Sloan, A. G. Shirreff and Panna Lal.<sup>20</sup> Technically speaking, it was not necessary that the Advisers be drawn from amongst the ranks of the civil servants; indeed, Madras 'was quite anxious to have non-official advisers'<sup>21</sup> though no such appointment ever came to be made.

The institution of advisers which has progressively come to constitute the kingpin of President's rule owes neither to the Constitution nor to any statute, it being purely executive in its origin and design. Obviously, there can be no fixed rule or formula regarding the number of advisers or even organisation of work amongst them. Nor are they obligatory at all, being meant for a Governor who needs advice. The number of advisers has ranged from nil to five. Punjab, the first State to have succumbed to the President's rule in 1951, did not have any advisers although at one time this proposal seems to have been considered. Y. N. Suthankar, the Governor of Orissa functioned without Advisers when that State was placed under Article 356 in 1961. Dharam Viri did not appoint any advisers in West Bengal and (old) Mysore when he was the Governor. On the other hand, S. S. Dhavan, the Governor of West Bengal, had as many as five Advisers in 1970. When an MP showed an inquisitiveness about the logic behind such a number, the Home Minister replied, 'One has to make an assessment about it. There cannot be any rigid rule in this matter. One has to go according to the conditions prevalent there. The present Governor thinks that possibly he could do justice and ensure more efficient administration with the help of five people.'<sup>22</sup> Nevertheless, a State under Article 356 must guard itself against too many advisers. A very large number puts a heavy strain on the quality of Administration which can be best ensured by a small and compact team of officers. Likewise, how exactly do

<sup>19</sup>Penderel Moon, ed. *Wavell: The Viceroy's Journal* (London; Oxford University Press, 1973), p. 51.

<sup>20</sup>Jaggannath Lakshman Sathe succeeded Panna Lal after the latter's retirement.

<sup>21</sup>Penderel Moon, *op. cit.*, p. 88.

<sup>22</sup>*Lok Sabha Debates, Fourth Series, Vol. XXXIX No. 38, 16 April 1970, col. 147.*

advisers function is also not laid down in strict terms. The style of their functioning gets to be determined in each State in the light of its own political and administrative compulsions.

### *Advisers in 'Part B' States*

It is notable that Advisers to Rajpramukhs have been more powerful than their counterparts to Governors. As Rajpramukh of Pepsu was the Maharaja of Patiala and that of Travancore-Cochin was the Maharaja of Travancore, the Central Government would not like them to re-emerge as effective rulers in their states which President's rule would have rendered inevitable. Therefore the announcement of advisers in both the occasions was made simultaneously with the Presidential take-over of the State. Besides, it was made absolutely clear that the Rajpramukh in each case was to act on the advice of the advisers. The Minister of Home Affairs announced in the Lok Sabha, 'The administration (in Pepsu) will be carried on under the general supervision, direction and control of the President by the Rajpramukh with the advice of an adviser appointed by the President.'<sup>23</sup>

### *Appointment and Mode of Functioning*

The need for advisers is to be articulated by the Governor but in practice he may not be left with any choice both in regard to the necessity of their services and in the matter of final selection. The ultimate decision in all such matters really rests with the Prime Minister who is advised in this respect by the Home Minister. All senior appointments are, as a rule, made by the Appointments Committee of the Cabinet, but advisers' appointment is kept out of its purview, for they fall in the category of constitutional appointments. Although it is the Governor who formally appoints them the preparatory work is done in the Home Ministry and the Prime Minister's orders are obligatory. The names of persons for adviserships are as a rule initiated by the Home Ministry. Simultaneously with the appointment of advisers the Rules of Business of the State Government concerned are amended to delete the provisions

<sup>23</sup>Parliamentary Debates: House of the People, Part II, Vol. 3, No. 17, 5 March 1953, col. 1484.

relating to ministers and to include certain provisions about the powers and functions of the advisers.

Advisers' role broadly corresponds with that of ministers and as such the departments of the State Government are formally distributed among them. All papers which used to be disposed of by ministers ordinarily come to them for their decisions. They put up the more important cases to 'Rajyapalji' which is the customary nomenclature employed. The Governor is, thus, relieved of routine administrative matters which would otherwise have shifted to him. In addition, the advisers advise the Governor on important matters. The pattern of functioning of the advisers has not been uniform, determined, in practice, by the personality of the Governor and the style of his own working. In certain States each adviser has disposed of work individually but in others there have also been regular advisers' meetings presided over by the Governor. In such cases matters which were required to be submitted to the Cabinet are ordinarily put up for collective decision-making. In West Bengal, when S.S. Dhavan was the Governor, the Rules of Business provided for regular meetings among advisers every week. In effect, the advisers functioned almost as a Cabinet and their meetings resembled the Cabinet meetings. It was customary for the Governor to preside over the meeting of the advisers almost on the same lines as a Cabinet meeting. Constitutionally speaking, the Governor can overrule his advisers and the gubernatorial assertiveness has manifested itself on a few occasions. But there were occasions when the Governor was 'over-ruled' by his principal adviser who, of course, had the backing of New Delhi. As advisers have been regular civil servants, their service conditions are as a general rule, governed by appropriate service rules. The salary of an adviser is determined according to the rank of the person.

The number of advisers have totalled upto 44 till 1976. The States in which they have been appointed are the following: Pepsu (1953), Travancore-Cochin (1956), Kerala (1959, 1970), Rajasthan (1966), Bihar (1968, 1969, 1972), Punjab (1969, 1971), West Bengal (1968), Gujarat (1971, 1974), Manipur (1972, 1973), Tripura (1972), Orissa (1973), Uttar Pradesh (1973), Gujarat (1974), Nagaland (1975), Tamil Nadu (1976) and Gujarat (1976). Advisers have all been civil servants. Out of 42, 32 have been

from the Indian Civil Service, 11 from the Indian Administrative Service and one from the Indian Police Service. Only one retired civil servant was appointed as Adviser—in Gujarat (1976). Such a composition need not be surprising in view of the administrative role of the advisers.

### *Governor and Advisers*

Although the practice is to appoint advisers in a State placed under President's rule (except where it is intended for a very short spell as in the recent (1975) case of Uttar Pradesh the merit of the advisory arrangement must not be exaggerated or accepted at its face value. Strictly speaking, there is hardly any need for advisers, for the Governor has at his beck and call the entire State administration headed by the chief secretary to assist him in tasks of administration. But a Governor lacking previous experience of administration may perhaps require the advice of advisers. But in such cases absolutely front-ranking civil servants who may also get along with the Governor need alone be appointed. Indeed, advisers shine only when Governors have been 'non-professionals' nor wanting in administrative orientations. The case of H.C. Sarin, who functioned as an Adviser to Khandubhai K. Desai in Andhra Pradesh (1973) as well as in Gujarat (1974) is deeply educative. While Sarin stalked the State of Andhra Pradesh having a less imposing Governor his presence in Gujarat remained only barely noticed with a more active Governor like K.K. Viswanathan. In other words, the advisers' functions cannot be studied in isolation from the Governor's. The part which the Governor plays under President's rule comes to depend essentially upon his own measure of experience in administration and his personality. A person like Dharam Vira, well-versed in administration, may—and does—involve himself more actively in the sphere of administration so much so that he may not stand in need of any advisers. In the case of Governors not so endowed or oriented, advisers become necessary and what is more they may come to be actually guided by the latter. It is significant that the Andhra Pradesh Governor, Khandubhai K. Desai, attracted some adverse judicial observations, for what he did was virtually abdication, not delegation to his advisers.

*Qualities of Advisers*

There is also the question of whether advisers should be drawn from outside the State or from within. The foremost qualities which an adviser should possess are administrative competence of the highest order, objectivity, political sensitivity and, last but not the least, acceptability by the Governor. The above question, thus, does not seem to be directly very relevant. Yet, its importance cannot be brushed aside, for local roots do breed subjectivity, which becomes more marked in the single party dominance system of India. The advisers sent to Uttar Pradesh in 1973 (after the fall of Kamlapati Tripathi) belonged to the Uttar Pradesh cadre, had earlier served Uttar Pradesh in various capacities and the officials whom they were expected to pull up or punish for inefficiency or other irregularities or neglect had been their junior colleagues for long years. It is not without significance that no senior police officer was removed after the PAC revolt although it was well revealed that this mutiny itself was the result of lax control by the officers and their failure to build up rapport with the men they commanded.<sup>24</sup> Still another reason for lack of improvement in administration was the disinterestedness in bringing about change in administration. Some of them were too deeply associated with some political leaders of the State to be able to look at the challenges objectively and act decisively. *The Patriot* narrates the story of an adviser who 'made his first call on reaching Lucknow at the residence of former Chief Minister'.<sup>25</sup> It may not therefore be a sound administrative policy to send as advisers the civil servants who belong to the same State except when President's rule is intended for a brief period or when possession of the knowledge of local affairs is considered to be of over-riding importance.

*Advisory Council in Uttar Pradesh*

Mention must be made of an innovation introduced by the Governor of Uttar Pradesh, B. Gopala Reddy, who sought to ensure all the advantages of the advisory system without incurring any additional public expenditure. Soon after the

<sup>24</sup>*The Patriot*, 11 November 1973.

<sup>25</sup>*Ibid.*

## Central Government and President's Rule

Simultaneously with the taking over of the State Government the President delegates the power of governance to the Governor of that State. But this delegation is subject to the superintendence, direction and control of the President. The use of the word 'President', however, is an euphemism for the President is the constitutional head of State, and all powers really vest in the Council of Ministers headed by the Prime Minister. What is, therefore, said and done in the name of the President reflects really the thinking and action of the Central Government. Since the Central Government is a party Government many aspects of President's rule such as its proclamation and termination may not be understood in isolation from the dynamics of politics, especially that of the ruling party at the Central level. Besides, consequent to the ringing out of the State Legislature the Parliament takes upon itself the functions of law-making and taxation for the State, and all this entails work and responsibilities for the Central Government.

The Governor addresses his report which initiates action under Article 356 of the Constitution to 'My dear respected Rashtrapatiji', or 'Respected Rashtrapatiji', or in a few instances 'Respected President' or 'My dear Mr. President'. This document is first received by the President's Secretariat and seen by the President who forwards it to the Prime Minister for advice. In 1970 a departure from this procedure for transaction of business was made in one instance. Uttar Pradesh Governor B. Gopala Reddy's report to President recommending President's rule was sent to the Prime Minister without being seen by the President V.V. Giri who at this moment of time was on a visit



to the Soviet Union, an action which aroused a measure of political controversy in the country.

As an item like President's rule falls within the charge of the Home Ministry, the Prime Minister marks it to the Home Minister for examination and initiation of necessary action. The report comes up for discussion with a note by the Home Ministry. The Prime Minister decides whether the report should first be taken up in the Political Affairs Committee of the Cabinet or straightaway come before the parent body. The more recent practice is to place the Governor's Report in the Cabinet itself. The Prime Minister who presides over the meeting gives a summary of the political developments in the State including, of course, the Governor's recommendation and suggests, also, a course of action. Generally the meeting is brief and the Cabinet endorses the views of the Prime Minister. The Cabinet's decision is immediately conveyed to the President who, then, issues the Presidential proclamation clamping Article 356 on the State and, by another order, issued simultaneously, delegates his powers to the Governor of the State both the notification and the order being announced by the Ministry of Home Affairs.

The whole exercise described above may ordinarily take from over a week (Punjab, 1966) to a few hours depending upon the urgency which the Prime Minister may attach to this matter. Indeed, the quickness with which the entire cycle gets completed now is impressive. In the case of Gujarat (1976), the Babubhai Ministry fell at 1.45 p. m. on 12 March 1976. At 4.30 p. m. the Governor's report began trickling in Delhi through the telex and was completed by 5.00 p. m. The Cabinet met at 6.00 p. m. to discuss the report. And at 7.30 p. m. the President signed the proclamation bringing Gujarat under the operation of Article 356 of the Constitution. In practice it may not be more than a ritual, for the Governor keeps the Centre informally apprised of the political developments in his State and thus before sending his formal report recommending President's rule he assures himself about its acceptance by the Central leadership. Similarly, President's assent to the Cabinet decision on the Governor's report is automatic—but is an indispensable constitutional requirement. Constitutionally speaking, it is only after the President has signed the proclamation that the President's rule becomes

effective in the State. The President's action in clamping Article 356 on a State enjoys finality and cannot be judicially challenged. When, for instance, Rao Birender Singh took the matter to the High Court challenging the constitutionality of the President's proclamation by which in 1968 the President's rule was imposed in Haryana, the Punjab and Haryana High Court dismissed the writ petition observing that the President was not amenable to the jurisdiction of the judiciary and that the Parliament which is invested with the power to approve or not to approve of the President's action lies outside the Court's jurisdiction.<sup>1</sup>

There are three patterns into which the President's rule may fall and the President's proclamation itself makes clear the pattern which has been opted for. These are the following: (i) The President removes the Ministry but keeps the State Legislature under suspension; (ii) He removes the Ministry and abolishes the Legislature but the Speaker of the Assembly continues in office; and (iii) He removes the Ministry, and the Assembly is merely suspended by the first proclamation but is later abolished. But while a suspended Legislature may be abolished a reverse movement has never been attempted (the Assembly abolished in the first proclamation but revived and kept under suspension by a subsequent one).

Once a State comes under President's rule it is required to be administered in accordance with the provisions of the Constitution. Besides an administrative mechanism has to be devised and set into motion to regulate the affairs incidental and consequential to these provisions. A study of the governmental mechanism at the Central level to deal with the routines of administration pertaining to President's rule is the theme of the present chapter.

The Governor has, as said earlier, been delegated the power to govern the President-ruled State. But his rule is subject to the superior authority of the President, which means the Council of Ministers. Besides, it is the Parliament, (not the Governor) which moves in to fill the gap created by the dissolution or even suspension of the State Assembly.

<sup>1</sup>The judgement was delivered on 1 March 1968. *The Tribune*, 2 March 1968.

Normally, the Governor administers all the 46 subjects figuring in the State list of the Constitution. But important matters even in this sphere are referred to the functional Ministry at the Central level for advice and even direction. The President-ruled State's relationship with the Centre is organised on a decentralised basis. The words 'superintendence, direction and control of the President' are significant, meaning that under the President's rule the final voice in all matters rests with the Centre. On the same token, parliamentary questions on the State are replied by the functional Ministries. Soon on their receipt they are forwarded to the State for compiling the necessary information and draft replies. The State is under an obligation to send the relevant information to the functional Ministries on time. The replies are as a rule given by the functional Ministers. The Ministries with whom the State Government comes to have extensive relationship are, Home, Finance, Law and Planning Commission, and the ones dealing with developmental subjects.

But then, such a dispersed kind of relationship between the State and the functional Ministries point upto the problem of coordination at the Central level. There is, thus, the need for a nodal or focal point at the level of the Central Government, and the obvious choice for this role is of the Ministry of Home Affairs which, it may be recalled, attends to 'matters relating to the emergency provisions of the Constitution (other than those relating to financial emergency)' under the Government of India Allocation of Business Rules, 1961. Even otherwise, of all the Central Ministries it is the Home Ministry with which the States have the most extensive and continuous relationship. While the State under President's rule deals directly with the functional Ministries, copies of important correspondence are regularly despatched to the Home Ministry. On the same pattern the Central Ministries deal directly with the State Government but make it a point to mark copies of all the correspondence to the Home Ministry. This arrangement is calculated to serve two purposes. First and foremost, the Home Ministry is kept informed on the whole range of administrative dealings with the various segments of the Central Government. Besides, it is also expected occasionally to get in touch with the functional Ministries to expedite the proposals

sent by the State and pending with them. This is the catalytic or trouble shooting role of the Home Ministry. All these and allied functions are in charge of a Division in the Ministry of Home Affairs, called the Centre-State Relations Division. Known as the Political Division till 1972, the Centre-State Relations Division deals, among others, with matters relating to President's rule. Though bearing the designation of Centre-State Relations Division, it looks after certain other items of work as well, and what is more, not all federal problems constitute its portfolio. This Division is headed by a joint secretary who is assisted by a complement of deputy secretaries including directors and under secretaries. The joint secretary reports directly to the secretary in the Ministry of Home Affairs.

Does a functional Ministry enjoy sovereignty in its dealings with the State? This issue may be set in its proper perspective by posing another question. Does a Ministry enjoy complete freedom in the ordering of affairs put under its charge? While a Ministry is empowered to dispose of a large range of matters referred to it by the State the more important ones are, as a rule, decided collectively, i.e., by the Cabinet. Two such items transcending individual handling are legislation and budget. The procedure evolved for each of them is briefly discussed below.

As a rule, the State concerned prepares the draft legislation and forwards it to the functional Ministry with a copy to the Home Ministry. The functional Ministry begins considering it in consultation with all the concerned Ministries, especially the Home, the Law and the Finance Ministries. As with any Central Legislation, it finally comes before the Cabinet for its approval. It is only after the Cabinet has cleared it, does the legislation gets placed before the Consultative Committee of MPs. In other words, the latter may suggest amendment to it or even disapprove it. No significant changes are, however, expected at this stage. Contrary to the parliamentary authority the Committee has only a consultative role. From the Committee, the piece of legislation goes direct to the President for his assent. The Committee being the surrogate of Parliament the bill does not come before that body for its approval. On the contrary, the procedure for enactment of

the hudget is not short-circuited. The hudget proposals are as a rule prepared by the President-ruled State and sent to the Ministry of Finance. It is then discussed by a group of concerned ministers, which always includes the Finance, the Home and the Planning Ministers.

It is significant to note that the budget proposals are never placed before the Consultative Committee of MPs for its comments. After it has been approved by the Cabinet, the Finance Minister presents it in the Parliament and the procedure applicable to the Central budget is observed in the case of the State's hudget hut the time allotted is hardly a few hours. After the passage of the budget in the two Houses it goes to President for his assent.

A word about the nature of the laws as well as of the hudget enacted for the State under Article 356 may be relevant here in the context of the query whether the State Government under President's rule is a mere care-taker Government. A study of the laws and the budgets passed for the States under Article 356 discloses that radical changes in policy especially those having political implications and major taxation measures are generally not contemplated during the continuance of President's rule. It was while piloting the Punjab State Legislature (Delegation of Powers) Bill in the House of the People in 1951 that C. Rajagopalachari, the Home Minister, explained the scope of legislative work to be done hy the Centre when a State was placed under President's rule: 'It is not the intention of Government to take up all legislation simply because they have authority for a summary process and go on with every kind of thing simply for the sake of making laws. What they (Centre) have to take is only that which is most urgent and most necessary either from the point of view of the present emergency (reference is to President's rule in Punjab) or from the point of view of any emergency that may arise in the province. Their intention is only to take up absolutely essential legislation.... But if they (the measures) are controversial and are likely, so to say, to forestall the legitimate activities of a popular Ministry, I promise that such things will not be tackled and it is not a pleasure for Government to tackle such things. We shall only deal with

necessary things.<sup>2</sup> K.N. Katju, the Home Minister in 1953, categorically regarded President's rule in Pepsu as a care-taker rule.<sup>3</sup>

If, for instance, the popular Government had taken a policy decision to introduce prohibition in the State, it is extremely unlikely for this policy to be changed under President's rule. There have been two notable exceptions to this general convention. The Communist Ministry in Kerala (1958) had completely dissociated itself from the scheme of common police reserve force implemented in the Southern Zone but Kerala joined this force when the State came under President's rule after the dismissal of the Namboodiripad Ministry in 1959. Similarly, on 2 April 1976, Nagaland under President's rule became a member of the North-Eastern Council although the popular Government had solemnly decided to keep out of it. The ethics of these two instances are seriously questionable; President's rule ought not to be utilised for reversing the political decisions of major import made by the popular Ministry.

It seems that the laws enacted under the President's rule generally embody the provisions already included in the budget which has been passed by the Parliament. A large number of laws passed for the State are in the nature of amendments to the existing ones. Certain taxation proposals passed by Parliament demand corresponding revisions in appropriate existing acts. Also, revisions of acts become called for to take care of judicial decisions or to remove gaps and difficulties discovered in the course of their administration. Hence most bills passed are really amendments to the existing acts. For example, during the period February 1974 to March 1975, when Gujarat remained under President's rule, the Parliament enacted the following laws for it: (i) The Bombay Inams (Kutch Area) Abolition (Gujarat Second Amendment) Act, 1974; (ii) The Bombay Tenancy and Agricultural Lands (Gujarat Second Amendment) Act, 1974; (iii) The Bombay Land Requisition (Gujarat Amendment) Act, 1974; and (iv) The

<sup>2</sup>*Parliamentary Debates, House of the People, Part II, Vol. XIV, No. 10, 17 August 1951, col. 783-84.*

<sup>3</sup>*Parliamentary Debates, House of the People, Part II, Vol. II, No. 4, 12 March 1953, col. 1899.*

**Gujarat Panchayat (Amdendment) Act, 1975.**

It is thus apparent that the State under Article 356 remains in an extended relationship with, and dependent upon, the Central Government. While the Governor has been delegated powers of governance, at the same time, he has also been made dependent upon the Central Ministries for major decisions and more particularly in the field of legislation and budget. The passing of the budget is a constitutional obligation and, moreover, it makes but one demand on the Centre in a year and so does not pose much of a problem to the State Government. The same however, cannot be said about other matters. While the State Government may give top priority to a matter, the functional Ministry which has to approve of it may respond less enthusiastically, thus delaying action. The harried Governor and other officials of the State may visit Delhi and impress upon an early action but the Ministries may have other pressures and commitments, and in this process even the Home Ministry's trouble-shooting role, even when activated, may have limited effectiveness in the face of Centre's own priorities.

Extensive, thus, becomes the Central Government's concern towards and participation in policy-making in areas in the State List of subjects of the Constitution. The Central role under President's rule becomes vastly increased particularly in the case of the State which was ruled by an opposition party. With varying degrees of assertiveness, therefore, New Delhi emerges as the super-capital of the State and State Government officials are seen continually visiting Delhi to explain and pursue certain proposals. Similarly, but on a much reduced scale, the officials from Central Government Ministries also begin visiting the State to discuss matters and see things for themselves. Any way, one of the effects of such an administrative arrangement is delay in the processing of new policies and programmes. To expedite decision-making at the Central level, a committee of secretaries was formed when Uttar Pradesh was placed under President's rule in 1973. But such contrivances, while cutting short the delay in the disposal of issues, are hardly meant to promote original and vigorous thinking on matters of long term policies. The existing machinery of Government caters to matters of day-to-day

administration but not suited for long-term planning. Or, perhaps, the President's rule has never been meant for making policies on major issues.



## ***Parliament and President's Rule***

Under the scheme of the Constitution, Parliament is intimately involved in the promulgation and continuance (but not with termination) of President's rule in the State unless, of course, it is not of more than two month's duration. Since Article 356 strikes out the democratic processes and institutions in the State concerned, such an action must require the sanction of the people's representatives at the higher, national level. The Parliament also gets formally endowed with the functions of legislation and taxation which in normal times are the responsibility of the State Legislature. Besides, the Parliament must begin to act as a watchdog both on the central executive's activities in so far as they relate to the State under Article 356 and on the State Government's functioning. But this body is not associated, even obliquely, with the termination of President's rule as no statement is made or placed in the two Houses when the President revokes it.

### **Approval of President's Rule**

The Constitution obliges the President's rule to be formally endorsed by both Houses of Parliament within two months of its proclamation. While seeking this approval the Home Minister lays on the table of the House, President's proclamation as well as (since the sixties) the Governor's report, and initiates discussion with a statement in which he explains the circumstances necessitating the imposition of President's rule in the State. This is followed by a debate in the House. This is the first and

the most important opportunity for Parliament to take stock of the situation calling for President's rule in the State. As the imposition of Article 356 is a political move, the discussion in the House is, understandably, charged with political overtones, being on party lines. The ruling party being safe behind its majority in the House, the debate which generally continues for a day or two ends with the expected endorsement of the governmental action. The parliamentary approval remains valid for only six months and, therefore, if the President's rule is continued for a longer period the Central Government is obliged to come before it again to seek its consent, and a debate again follows.

### **Passing of the State Legislature (Delegation of Powers) Bill**

The second opportunity which Parliament gets generally within a month or so of the imposition of President's rule (except when it is not in session) is of a more substantive nature. One must recall that under President's rule the powers of the State Legislature become exercisable by Parliament or under its authority. The second occasion involves that august body in enacting a statute authorising delegation of legislative power of the State Assembly to the President. Originally, the State Legislature (Delegation of Powers) Bill was passed like any other Bill with its usual three readings. Now the Parliament approves a resolution under which the Bill gets passed. This process takes much less time, but the Parliament gets deprived of an opportunity of a detailed discussion of the affairs relating to the State under Article 356. There have been a few instances (for example, Punjab in 1971) when the Parliament was given a single opportunity to pass the statutory resolution as well as the bill delegating legislative powers to the President. Coming back to this subject, in consequence of this enactment the President, may, from time to time, whether Parliament is in session or not, enact as a President's Act a bill containing such provisions as he considers necessary. The 'President's Act' when enacted is required to be laid before each House of Parliament and the latter passes a resolution within thirty days

signifying its approval or making amendments. This statute also includes a provision for the constitution of a committee consisting of members of Lok Sabha and of Rajya Sabha which the President 'shall, whenever he considers it practicable to do so, consult'.

The Parliament, thus, gets its second opportunity when enacting the legislation delegating legislative power to the President. The need for this kind of legislation has been felt since the beginning of President's rule in India. Justifying it, C. Rajagopalachari, the Home Minister, observed in 1951 when Punjab came under Article 356, 'If every legislative measure that may be necessary to enact from time to time for the state of Punjab were to be taken up by Parliament it would require a great deal more of time than we can possibly spare and it would hold up all other measures of all-India importance. This bill [i.e., Punjab State Legislature (Delegation of Powers) Bill] seeks during this emergency period to confer on the President the necessary powers'.<sup>1</sup>

However, it was not without serious misgivings that Parliament agreed in 1951 to enact the Punjab State Legislature (Delegation of Powers) Bill. One member observed, 'I do not know of any kind of Government except a despotic Government where the law-making powers are given to one person.... A standing committee of the House consisting of the elected members from Punjab in the House may be constituted and others will be associated with them. They may be given the power to prepare bills and it will be easy for Parliament to pass them'.<sup>2</sup> K.T. Shah observed, 'Parliament may sit, and I hope it will sit long enough to pass any urgent legislation in the Punjab that may be necessary or some arrangement may be made whereby a semblance of a legislative body may be instituted for the Punjab even during the interval so that we should not have the mortification of taking from the armoury of the British regime everything that we ourselves used to condemn....'<sup>3</sup> Over the years the significance of this occasion

<sup>1</sup> *Parliamentary Debates*, Part II, Vol. XIV, No. 7, 13 August 1951, col. 544.

<sup>2</sup> Pandit Gopi Chand Bhargava's Speech. *Parliamentary Debates* Part II, Vol. XIV, No. 7, 13 August 1951 col. 596-97.

<sup>3</sup> *Parliamentary Debates*, Part II, Vol. XIV, No. 8, 14 August 1951, col. 701.

the deligation of legislative power to the President has steadily declined and today it is comparatively a tame affair. The debate takes place at a low key and the sailing of this piece of legislation is smooth and uneventful. But the contents of the Parliamentary statute are no less momentous. The act gives a blank cheque, as it were, to the executive in the field of law-making and the Parliament's role becomes optional, in the process getting restricted to mere passing, if it chooses, of resolutions according approval of or modifications in the Act. The Consultative Committee of Members of Parliament, set up under this statute, remains seized with legislative matters of interest or concern to the State. This Committee needs a somewhat detailed discussion.

### Consultative Committee of MPs

A Consultative Committee of Members of Parliament<sup>4</sup> is set up generally to 'advise' the Government on matters of legislation relating to the State under President's rule. Its function is to whet the laws meant for the State before they are enforced. As a convention, however, it tends to function like a mini-Parliament showing its concern towards all matters relating to the State. It is a committee nominated by the Speaker of the Lok Sabha and Chairman of the Rajya Sabha but is not a parliamentary committee.<sup>5</sup> Its meetings are convened by the Ministry of Home Affairs. It meets two or three times in a year, sometimes in the State concerned itself. Since Parliament has been constitutionally associated with the administration of President's rule in a State, it has to be consulted in matters relating to the latter. As it does not have the time to perform this role, its committee is constituted for this purpose. This constitutes the *raison d'être* of the Consultative Committee of MPs.

The Consultative Committee on State Legislation was not set up at the time of the first State, namely Punjab, coming under President's rule in 1951. But a plea for some kind of

<sup>4</sup>The Official nomenclature of this body is 'The Consultative Committee on (name of) State Legislation'.

<sup>5</sup>Vide *Lok Sabha Debates*, Part, II, Vol. X, No. 27, 19 December 1956, col 3549.

similar body was made in the Lok Sabha by Thakur Das Bhargava who said, '... I want to submit that this House may appoint a Sub-Committee comprising Sardar (B. S.) Mann, Bakshiji (Bakshi Tek Chand) and four or five Members of Punjab: some Members from other States may also be included. That sub-Committee would make laws for Punjab'.<sup>1</sup> When two years later Pepsu was put under President's rule many Members of Parliament expressed their strong misgivings on the matter of delegating Parliament's legislative power to the President without having any consultation or say in legislation-making. In deference to their wishes, K. N. Katju, the Home Minister, agreed to set up a Consultative Committee. As a result the Pepsu Legislature (Delegation of Powers) Act, 1953, delegated legislative power to the President provided that before enacting any such Act the President shall, except where it is not practicable so to do, consult the Committee constituted for the purpose consisting of ten Members of the House of the people nominated by the Speaker and five Members of the Council of States nominated by the Chairman. The statute did not restrict the discretion of the Speaker and the Chairman to the MPs from the state concerned, 'But what we had in mind', K. N. Katju said, 'was that Members who would be particularly acquainted with the local conditions, very likely their names would occur to the Speaker and the Chairman first so that they might be able to give their useful advice'.<sup>2</sup> What was left to evolve through a convention became a statutory provision in the case of Kerala in 1956, when Parliament passed the Kerala State Legislature (Delegation of Powers) Act. According to this legislation, the President was to consult a Committee constituted for the purpose 'consisting of all the Members of the House of the People and the Council of States who for the time being fill the seats allotted to the State of Kerala in the two Houses'.<sup>3</sup> Pandit Govind Ballabh Pant, the Home Minister, announced this change in December 1956 when moving the Kerala State Legislature (Delegation of

<sup>1</sup> *Parliamentary Debates, Part II, Vol. XIV, No. 7, 13 August 1951, col. 590.*

<sup>2</sup> *Parliamentary Debates, Council of States, Vol. III, No. 47, 12 May 1953, col. 5579.*

<sup>3</sup> *Section 3(2) of the Kerala State Legislature (Delegation of Powers) Act, 1956.*

Powers) Bill in the Lok Sabha. He observed, 'As there is no local legislature, the Parliament has to devise some ready machinery for giving legislative sanction to necessary measures meant for the Kerala State. So it is proposed to give that power to the President. But, before any such Bill can be accepted it will be placed before, and considered by, the Committee consisting of all Members from Kerala. In fact, even before the formal acceptance of the proclamation I have had the privilege of consultations with the Members from Kerala. They have been good enough to give me very useful advice. Now, by virtue of this bill, measures relating to Kerala will be placed before the Committee, and then the President will give them the legal form and sanction.'<sup>9</sup>

The composition of the Consultative Committee was to undergo further changes both in its pattern and in size in years to come, and a beginning in this direction was made with the passage of the Kerala State Legislature (Delegation of Powers) Act, 1959, which provided for a compromise between the two principles. Accordingly, the Consultative Committee of MPs for Kerala consisted of thirty Members of the Lok Sabha nominated by the Speaker among whom were included all Members from Kerala and fifteen Members of the Upper House nominated by the Chairman among whom were included all the Members from that State. This marked a departure from the earlier practice of making this Committee consist only of the Members of Parliament from the State under President's rule. Justifying the change, B.N. Datar a Minister in the Ministry of Home Affairs, said that Parliament also needed 'to be reflected in this Committee,'<sup>10</sup> and the Government's stand was accepted notwithstanding the opposition by Members of Parliament from Kerala. The compromise proved to be interim, and by 1961 the composition of the Consultative Committee began to reflect the strength of various political parties in the Parliament. The Orissa State Legislature (Delegation of Powers) Act, 1961<sup>11</sup> was

<sup>9</sup>*Lok Sabha Debates*, Part II, Vol. X, No. 27, 19 December 1956, col. 3546.

<sup>10</sup>*Lok Sabha Debates*, Second Series, Vol. XXXVI, No. 13, 2 December 1959, col. 2962.

<sup>11</sup>Within a month of the first meeting of the Consultative Committee of MPs in Orissa the President's rule was revoked. It is not usual for

the first to lay down this direction and provided that before enacting any act the President 'shall, whenever he considers it practicable to do so, consult a Committee constituted for the purpose, consisting of fourteen members of the House of the People nominated by the Speaker and seven members of the Council of States nominated by the Chairman'.<sup>12</sup> Thus the provision for inclusion of all MPs from the State under Article 356 became conspicuous by its absence in the Orissa State Legislature (Delegation of Powers) Act. At this time the MPs from Orissa numbered thirty, twenty from the Lok Sabha and ten from the Rajya Sabha. This meant that some MPs from Orissa were to be kept out of the Committee. Many MPs objected to this manner of constituting the Committee. Even the Speaker asked why all MPs from Orissa could not be put on it. Replying to him, Lal Bahadur Shastri, the Minister for Home Affairs, said, 'The only point is the Committee will become an unwieldy body. In these States (reference was to Kerala and Orissa) it is a smaller number. But take, for instance, *Uttar Pradesh*. Of course, I hope no President's rule would be introduced there. But suppose it happens like that, then we will have a very big body, a very big Committee, if all the Members from that State are to be included. So, that should not be the precedent'.<sup>13</sup>

In short, originally the Consultative Committee used to comprise all the Members of Parliament (which means both Houses) elected from the State concerned, regardless of their political affiliations. Such a composition could be viewed as a mechanism to introduce the popularly elected local element in the management of affairs of that State. In the single party dominance system, this manner of constituting the Committee did not pose any significant problem, for it tended to reflect, at the same time, the political complexion of Parliament. When, however, Kerala with its substantial Communist following came

the Central Government to enact the State Legislature (Delegation of Powers) Act when the President's rule is to last for a short term. In Orissa, Article 356 remained applicable for 118 days only.

<sup>12</sup>Section 3 (2) of the Orissa State Legislature (Delegation of Powers) Act, 1961.

<sup>13</sup>*Lok Sabha Debates*, Second Series, Vol. LV, No. 53, 25th April, 1961, col. 13613.

under the President's rule in 1959, the constitution of the Consultative Committee along the above lines would have made it a Communist-dominated body, thereby completely upsetting the political balance between Parliament and this Committee. This occasion was utilised by the ruling party to introduce a modification in the manner of constituting it and this process was completed in 1961. The Consultative Committee now reflects, in size and shape, the political complexion of the Parliament itself. Within the constraints of proportional representation of political parties in it, the attempt is to put as many MPs from that State on it as possible.

Whether the basis of membership should be nomination or election was also discussed. Direct election of the Committee's members by the entire House was preferred by some on the ground that it was a more democratic process. Commending this mode, a Member of Parliament said, 'I feel that (the) power being given to the Speaker or any body else to nominate members to the Consultative Committee is not in consonance with or in accordance with the spirit of the Constitution. Once the President takes it (the State Government) up, it means that this Parliament comes into the picture, and the President only acts through the advice of the party in power. So, so far as the Consultative Committee is concerned...it must completely reflect this House. It is the Parliament that rules Orissa now. If that is so, if the President is given the powers, normally it means the power of the party which is in power... The whole responsibility is on Parliament now. We are responsible for it, that is, the party in power. If that is so, the Consultative Committee also must completely reflect this House. So, I submit that nomination would not be proper. It must be election'.<sup>14</sup> This suggestion was not accepted because it is only the mode of nomination which can ensure maximum representation to the national Legislature from the State under Article 356.

The meeting of the Consultative Committee is presided over by the Minister for Home Affairs. The Governor accompanied by the Chief Secretary generally attends the meeting, giving a resume of the work done in the State during

<sup>14</sup>Achar's speech in the Lok Sabha. *Lok Sabha Debates*, Second Series, Vol. LV, No. 53, 25 April 1961, col. 13614-15.



the period under President's rule. Where there are advisers, the latter attend on behalf of the Governor. Generally speaking, Members of Parliament belonging to the State under Article 356 are more vocal and take more interest in its activities than those who come from other States. Even the MPs of the first category show more concern for the problems affecting their constituency than in general matters of State-wide significance. Moreover, the legislators do not evince sustained interest in the work of this body.

### **Informal Consultative Committee of MPs**

This Committee must not be confused with the Informal Consultative Committee of MPs<sup>15</sup> attached to each Ministry of the Central Government, an arrangement devised in the year 1954. The latter Committee is a standing one and discusses the problems and matters relating to the Ministry to which it is attached. As politically charged matters relating to President's rule fall within the jurisdiction of the Ministry of Home Affairs, the Informal Consultative Committee attached to it begins showing interest in the State under Article 356. More questions so that State begins to be put in this Committee, particularly by members who come from it. The Informal Consultative Committees attached to other Ministries may discuss functional matters relating to the State. While members in both these bodies may seek information and give vent to their feelings they are unable to change or even influence major policy decisions affecting the State.

### **Enactment of Budget**

The Parliament has also the constitutional obligation of passing the budget of the State under President's rule. The budget is, in fact, prepared by the State Government itself but is presented by the Finance Minister. Formalities associated

<sup>15</sup>For a detailed discussion, see S.R. Maheshwari: *Government Through Consultation* (New Delhi: Indian Institute of Public Administration, 1972, pp. 202-26.

with the budget and the money bill are observed in the case of the passage of the State's budget. The MPs from that State are generally keener participants in the discussion which, however, is not, and cannot be, even half as detailed as is usually the case when the Central Government's budget is being passed. For instance, the Punjab budget for 1971-72 was passed by the Lok Sabha in 90 minutes.

### Other Tools

The Committees of Parliament have their jurisdiction extended to the state under President's Rule. The Committee on Public undertakings, for instance, examined the functioning of the public undertakings of Kerala when the State was under Article 356. The Public Accounts Committee also covered Kerala. In practice, however, the parliamentary committees have their hands already full, and extension of their concern to the State under President's rule is not a general event.

The foregoing is an analysis of the institutionalised opportunities available to Parliament to discuss affairs of the State under Article 356. In addition, it can press into service all the other well-known mechanisms of control such as adjournment motion, no-confidence motion, half-hour discussion parliamentary interpellations, etc. Not all these mechanisms are utilised in practice, and not by all or all the time. More active in invoking them are the Members of Parliament coming from the State concerned, more particularly the opposition members. For instance, the number of parliamentary interpellations focused on that State registers an appreciable increase under President's rule.

An increase in the workload of individual MPs from the State is seen to occur consequent to the exit of State legislators. Their constituency linkage becomes more encompassing and they begin to spend more time in their State, visiting the State capital more often and meeting the officials, especially the Governor and the advisers. As a former Governor put it to the author, 'The MPs are never satisfied with seeing the Advisers only. They all come to see the Governor bringing all sorts of problems. But they are more individual case-oriented, and

seldom do they come with general problems'. It is to be noted that the solitary State level people's representative who ordinarily remains in office even under President's rule is the Speaker of the State Assembly. His principal function remains to look after the secretariat of the Assembly and has practically no role in influencing the ordering of affairs in the State.

### Evaluation

With these avenues open to Parliament is this body able to ensure or enforce accountability of the State Government? The scheme of President's rule as designed in the Constitution sought, while suspending the democratic process in the State, to make operative parliamentary control and surveillance over the State Government. The types as well as range of this control have already been discussed in the present chapter. But the mechanism is neither adequate nor effective to secure the equivalent of the vanished accountability of the State Government. In the first place, parliamentary control, by its very nature, is remote-control, and is really no substitute for State level direction and monitoring of the State Government. Secondly, Parliament does not have the necessary time and energy even to deal with its direct tasks, much less with this delegated responsibility. At any rate, all the problems of the State Government do not get highlighted in Parliament. Thirdly, it is too tall a demand on 500 and odd Members of Parliament to direct their attention to the affairs of the State under President's rule. Jyotirmoy Basu expressed this dilemma this way: 'About the budget side, I would say that it is a great pity, because we know so little about Punjab's budget. We had no time to study it carefully. We do not know the facts that should be studied. Just we are doing something which should not be done.'<sup>18</sup> At best, only the Members of Parliament belonging to that State show a measure of concern towards the administration of the State. Fourthly, the parliamentary orientation is manifestly political and partisan, and the

<sup>18</sup> *Lok Sabha Debates, Fifth Series, Vol. IV, No. 21, 21 June 1971, col. 159.*

Central Government does manage to remain completely safe behind its majority in the Parliament, - thereby rendering the mechanism of parliamentary control of sporadic and occasional effectiveness, if not altogether devoid of impact.

One therefore cannot help arguing that public accountability of the State inevitably becomes low, irregular, uneven, and askewed when it comes under President's rule. Parliamentary control and surveillance become all the more restricted as a result of another practice which needs to be curbed and discouraged. There is a trend in the more recent past for the Executive to simultaneously seek parliamentary approval of the two resolutions on President's proclamation and on the State Legislation (Delegation of Powers) Bill. On one occasion the Parliament was called upon to take up for discussion, in addition to the two resolutions, the budget for the State under Article 356. Paucity of parliamentary time is given as a reason behind this practice but any combining of these events inevitably curtails parliamentary scrutiny. Under President's rule, the Consultative Committee of MPs becomes the bulwark of public accountability. But it does not seem to be effective in its functioning, and in this context the following observation of a Member of Parliament made in 1956 is revealing:

The Home Minister also said that 13 Bills (relating to Kerala when it was under President's rule in 1956) have been passed and all were accepted by the (Consultative) Committee. With due respect to the Home Minister I would submit that it is not a very correct picture. The Minister in the Ministry of Home Affairs (B.N. Datar) knows well that during the discussions which we have had, very many points of fundamental difference were also raised which could not be ironed out. But to our surprise we found that when the Bills were printed and circulated as Acts, it was also pointed that the Bills had the concurrence of the entire Committee.... Also, you will find that the Consultative Committee is neither a Parliamentary Committee nor a Committee which represents the Travancore-Cochin legislature. I am strengthened when I say this because, on a question of fundamental difference between Shri Datar and myself, I had the

position clarified from the Hon. Speaker who wrote to me that although it is a Consultative Committee it is not a parliamentary Committee and therefore, as a necessary corollary, we are not in a position to exercise the rights and privileges as Members of this House when we are functioning in this Committee. No record of the discussions which we have had are kept. There is no rendering in short hand and then transcribing in long hand. The result is, whatever they (the Government) say we have to accept. Although it creates an impression that all members have agreed, it is not a fact <sup>17</sup>

There is no evidence to suggest revision of the above assessment. A Member of Parliament said in 1971, 'During the six months of its (Consultative Committee on West Bengal Legislation) existence only two sittings were held and that too for 6 or 7 hours. Important issues could not be discussed. Some problems were placed before the Consultative Committee and they were got through in an hour.... So, my definite demand... is that the Consultative Committee should regularly meet and discuss the issues that are there and the important issues that come up daily.'<sup>18</sup> Similarly, more thought should be given on the composition of this body. It may perhaps be so constituted that it reflects the strength of the political parties in the State Legislature concerned, thereby making it spiritually closer to the State under Article 356.

This does not necessarily mean gross irresponsibility on the part of the State public administration. President's rule provides for a new set of persons such as the Governor and his advisers to show continuous regard for public interest and to exercise control over State Government functionaries. As a result, the hierarchical accountability becomes more fully activated. As the Governor emerges as the kingpin of State administration, he, more than any one else, may contribute most significantly towards making it efficient both in the technical and the social sense. To ensure this, he undertakes

<sup>17</sup>V.P. Nayar's Speech in the Lok Sabha, *Lok Sabha Debates*, Part II, Vol. X, No. 27, 19 December 1956, col. 3548-49.

<sup>18</sup>Diven Bhattacharyya's Speech in the Lok Sabha, *Lok Sabha Debates*, Fifth Series, Vol. IX, No. 17, 6 December 1971, col. 14.

regular tours in the State and gingers up the public administration. He makes himself more accessible to more people and on occasions even gives summary decisions in many matters. The advisers also tour the State and expedite decision-making. Laudable as these efforts undoubtedly are, they are hardly a substitute for what has been constitutionally taken away from the people—their popular Government. President's rule is, at best, a necessary evil; the shorter its duration, the better it is.

## ***President's Rule: Image and Reality***

President's rule is commonly associated with certain attributes and it is the purpose of this chapter to examine them. In doing this the following hypotheses are first formulated:

- (1) President's rule is invoked only when no political party is in a position to form the Government.
- (2) Law and order is maintained firmly under President's rule.
- (3) The functioning of the State Government becomes more efficient under President's rule than under popular rule.
- (4) Political interference in the functioning of the administration is reduced under President's rule.
- (5) Corruption in public administration disappears under President's rule.
- (6) Developmental programmes come to receive high priority under President's rule.
- (7) The Central Government's bounties to the State increase significantly under President's rule.
- (8) People prefer President's rule to a popular regime.

It is now proposed to examine all these hypotheses.

1. *President's rule is invoked only when no political party is in a position to form the Government.*

Article 356 is invoked when the President is satisfied that a situation has arisen in which the Government of the State cannot be carried on in accordance with provisions of the

Constitution. But a detailed analysis of the thirty-six occasions of President's rule in India focuses on the following situations leading to the suspension of popular rule in the States:

(i) A Ministry was voted out of power, and no other party or coalition of parties was able or willing to form another Ministry. (ii) Consequent to the voting out of a Ministry the Governor recommended President's rule, altogether ignoring the plea of the second largest party in the Assembly for invitation to form an alternative Ministry. (iii) The Governor refused to call the largest alliance in the Assembly to form the Ministry. As this alliance alone was capable of forming the Government, the Governor recommended President's rule. (iv) The Ministry met with an adverse vote in the Assembly as a result of floor-crossing by the legislators and tendered its resignation. The Governor regards the resultant situation as politically confusing and opts for President's rule though political parties make claim to form the Ministry. (v) No single party won a majority in the Legislature after election and the Governor straightway recommended President's rule without exploring the political processes to find out if a Ministry could be formed by a party (with support from others) or a coalition of parties. (vi) The State Assembly was not able to meet as a result of the Speaker's action.<sup>1</sup> (vii) Sheer constitutional formality.<sup>2</sup> (viii) The most powerful and formidable party of the land, the Congress, was smitten by internal factions and stepped out of office without any adverse vote in the Legislature. On quite a few occasions, President's rule was really not necessary; in each such instance the ruling Congress Party, which alone was capable of forming the Ministry, resigned, thereby forcing the Governor to clamp Article 356 on the State. In such cases the Assembly was not generally dissolved, Punjab (1951) being an exception, and the

<sup>1</sup>The Speaker of the West Bengal Assembly, Bijooy Bannerjee, twice declared as unconstitutional the appointment of P C Ghosh as Chief Minister and summoning of the Assembly on his advice.

<sup>2</sup>The Union Territories of Manipur and Tripura were made full fledged States at a time when they did not have their Legislature and Councils of Ministers. President's rule alone could constitutionalise such a situation: a State must have its Assembly and a Ministry, unless it is under President's rule.



same party came forward to form the Government after a spell of President's rule. (ix) The Ministry was dismissed on the ground of 'mass upsurge' against it in the State, although it was enjoying majority in the Assembly. (x) The ministry did not lose majority in the Legislature but the Governor recommended dismissal on the ground that the ruling party was keeping itself in power by offering inducements to legislators to maintain its majority. (xi) The Ministry was discharged on charges of corruption though it commanded a majority in the Legislature.

Article 356 has thus subverted a wide variety of purposes. Some of these are not easily testable thus leaving an impression of being political in intent. At any rate, the uses to which it has been put and the frequency of its employment have virtually made the amplitude of this Article infinite, a situation never contemplated by the framers of the Constitution. On the contrary, the Constituent Assembly had conjured up a state of rusty idleness for Article 356. Participating in the debate on this provision, B.R. Ambedkar, Chairman of the Drafting Committee, told that body, 'In regard to the general debate which has taken place in which it has been suggested that these articles are liable to be abused, I may say that I do not altogether deny that there is a possibility of these Articles being abused or employed for political purposes. But that objection applies to every part of the Constitution which gives power to the Centre to override the provinces. In fact I share the sentiments expressed by my honourable friend Mr. Gupta yesterday that the proper thing we ought to expect is that such Articles will never be called into operation and that they would remain a dead letter. If at all they are brought into operation, I hope the President, who is endowed with these powers, will take proper precautions before actually suspending the administration of the provinces.'<sup>3</sup>

That the application of Article 356 has not always conformed to the intentions of the framers of the Constitution is obvious. Even the acme of legal perfectionism, which a Constitution is, cannot escape being interpreted and operationalised in terms of the value-frame of its operators.

<sup>3</sup>*Constituent Assembly Debates*, Vol. IX, p. 177.

The two levels of Government, each separate and autonomous, are apt to generate occasional frictions in their mutual dealings, especially when different political parties are in power at the two levels. In this context, the very constitutional provision for the Central take-over of State administration deepens a propensity towards its use thereby weakening the latter's position in the federal system.

2. *Law and Order is maintained firmly under President's Rule.*

Perhaps the greatest achievement of President's rule is discernible in the field of law and order in the State. Law and order shows an obvious improvement under President's rule, for threats to peace like riots, agitations, anti-social activities and the like get checked more successfully. This should not be surprising, for political leaders are in wilderness under President's rule and people with a grievance, genuine or fancied, have no one to organise any agitation against the administration. President's rule is particularly welcome to the police which gets a freer hand in handling men and matters falling within its area. As a result, it is not uncommon to come across instances of police *zulum* especially on the less organised, less vocal sections of the population. The ever restive campuses remain quiet under the President's rule. Indeed, among those who have a sense of relief on the advent of Article 356, the harried vice-chancellors of universities figure very prominently. This happens not because the education budget gets significantly stepped up, but those causing, either directly or indirectly, discord and disturbance on the campuses find their teeth stripped, at any rate for the time being. The student leaders, who as a class are vocal, even aggressive during the popular regime, sense the new environment and prefer lying low. In a sense, therefore, the President's rule may provide an ideal opportunity to the educational institutions to initiate important education reforms. This, however, has not been the case.

All this, of course, does not imply that there is inevitably a deterioration of law and order under popular Government. Elected governments in the States are known to have maintained law and order reasonably well. It, however, appears that law

and order situation worsens considerably under a leftist Government. This was the case in Kerala (1959) and in West Bengal, (1967-68 and 1969-70). The Communists project their ideology on the functions and role of the police. The police under the Communist Government is not expected to interfere in favour of the exploiting, bourgeoisie classes in labour strikes, agrarian disputes and other popular movements. The Communist philosophy on law and order was best expounded by S.A. Dange soon after the dismissal in 1959 of the Namboodiripad Ministry in Kerala. He solemnly told the Parliament, 'The sense of State power is the police.... It (the police) enforces the class relation that exists. The laws are enacted; they are outwardly impartial. But in effect they work against the worker, peasant and middle-class people and work in favour of the exploiting classes. In this the police is a vital element.... The police is on the side of the rich, moneyed elements.... Therefore, the first step taken by the Kerala Ministry was to make a police statement. We defend that statement and we shall make it again—that the police shall not interfere in strikes in favour of the employers, that the police shall not interfere in peasant disputes in favour of the landlords and the police shall observe the law in such a way that it is not a party against the workers and the toiling masses and in favour of the exploiting classes.'<sup>4</sup> No wonder the President's rule in States after a Communist Ministry accords top priority to law and order and scores a conspicuous success in maintaining it. The achievement is striking in the back ground of inattention, even though selective, to this aspect under the earlier Communist regime.

3. *The functioning of the State Government becomes more efficient under President's rule than under popular rule.*

That the President's rule has on occasions come in the wake of perceptible inefficiency in the public administration of the State and that it is characterised by a reduction in the levels of consultation and consideration may account for the

<sup>4</sup>Lok Sabha Debates, Second Series, Vol. XXXIII, No. 11, 17 August 1959, col. 2867.

prevalance of the above view. As one of the foremost declared objectives of President's rule is to ensure clean and efficient administration in the State, greatest attention is naturally given towards toning up of the machinery of the government at all levels. Indeed, within the first few hours of the introduction of President's rule, detailed instructions are normally sent to public servants all over the State asking them to discharge their duties in a fair and efficient way. Such a circular has always followed closely on the heels of every President's rule. When, for instance, Article 356 was first introduced in the Punjab, the Governor issued a ten-point letter of instructions to heads of department, divisional commissioners, deputy commissioners, district and sessions judges, and other civil servants in the State. The civil servants were instructed 'not to accept recommendations' and 'not to tolerate communalism in any shape or form'. The business of Government was to be conducted on the sole consideration of merit, justice and fair play. The officers were told to speedily and effectively deal with corruption and arrange for summary punishment of corrupt officials. The civil servants were further called upon to deal with all complaints promptly and to listen to all visitors and complaints with patience and courtesy. Stressing the need for economy, and avoidance of wasteful expenditure, the circular wanted the public personnel to subordinate their convenience to the interests of the people and the State.<sup>1</sup>

There is a measure of expedition in decision-making in the State administration but this is generally true in the case of implementation of policies and programmes. In other words, the pace of execution of what had already been decided and initiated by the popular Government gets quickened under President's rule. But major-level policy-making gets generally postponed until the return of the popular Government. This comes about for two reasons. The Ministries of Central Government which get directly involved in matters of major policy-making do not have the time or interest, or even knowledge of local problems to be able to initiate major moves in the field of State administration. More importantly, there is a widely shared view that the President's rule is more in the

<sup>1</sup>*The Statesman*, 27 June 1951.

nature of a care-taker Government and major policy decisions requiring political decisions or having political implications ought to be taken by the popular Government alone. For instance, the West Bengal Governor, S.S. Dhavan, emphasized in his first radio broadcast after the imposition of President's rule in 1970 that he would regard himself as 'a care-taker'.<sup>6</sup> Similarly, the chief secretary of Uttar Pradesh, B.B. Lal, observed in 1968 that the State, under President's rule, would not adopt new policies but carry out the policies already laid down by the popular Government.<sup>7</sup>

Nor must one forget that the spurt in efficiency of State public administration does not remain perpetuated under President's rule, for before long the state of affairs begins descending to the earlier, more familiar levels of operation. This aspect is discussed in detail under other sub-heads in this chapter.

#### *A. Political interference in the functioning of State administration is reduced under President's rule*

Political interference in public administration is a fact of life in the country. President's rule is characterised by a reduction in the number and intensity of political interference and also change in its style, especially in the beginning. This is particularly so when the Legislature is dissolved, for the assertiveness of the politicians does not get completely extinguished in the case of the Legislature kept under animated suspension. Also, there is a distinct shift in the level from which interferences begin to be faced by public administration. Under President's rule, the Members of Parliament assume State legislators' role too, and start meeting officials including the advisers as well as the Governor more often—generally to plead individual cases. The state level politicians, now in wilderness, exert pressures on the senior administrators through the Central Government leaders. Even otherwise, the Central ministers hailing from the State under Article 356 begin evincing active interest in the details of administration. Thus political interference appears to shift from the State capital to the Centre.

<sup>6</sup>*The Times of India*, 21 March 1970.

<sup>7</sup>*The National Herald*, 23 February 1968.

But to say that political interferences come to a complete stop appears to be too idealistic a supposition in the single party dominance system of India. Knowing that the same political party—and most probably the same persons—would return to power once President's rule is lifted a number of civil servants do appear to be demonstrably receptive to the demands of the leaders of the ruling party. In this context one must point out that the personality of the Governor is the single most decisive factor determining whether public administration resists such advances made by politicians or succumbs to them. There have even been occasions when the President's rule attracted a measure of criticism on the score of being formally pro-Congress. Many of the actions of the Central Minister for West Bengal Affairs (1971) were widely viewed as being political in design.

Similar was the case of Uttar Pradesh in 1973. The outgoing Chief Minister, was permitted to continue as chairman and the former Planning Minister in the outgoing ministry was appointed as adviser to the food department while the Minister for Hill Development in Tripathi Ministry was made the Vice-Chairman of the Hill Development Board.<sup>8</sup> Besides, certain actions of the Governor, which were certainly avoidable, wore a manifestly partisan look. 'In his presence, a conference of officials held in Meerut in July (1973) was presided over by the president of the UPCC (Uttar Pradesh Congress Committee). In another city, the Governor was present at a conference of Congress workers.'<sup>9</sup> It is but a truism that one should not only be fair but also appear to be so.

Nor does President's rule seem to make any dent on the hidden links between the politician and the administrator. These are too long, too pervasive and much more local, and the balance contrived between the politician and the administrator is too mutually beneficial to be disrupted by President's rule.

##### 5. *Corruption in Public Administration disappears under President's rule*

The belief given currency by the official promise of

<sup>8</sup>*The Times of India*, 16 November 1973.

<sup>9</sup>*Ibid.*

'clean and efficient administration' under President's rule is not sustainable, at least in its entirety. Soon after the exit of his Ministry in Punjab (1951), Gopi Chand Bhargava reacted to the charge of corruption in public administration under popular regime by asserting, 'The general belief is that it will go on, Ministry or no Ministry,'<sup>10</sup> its causes lying in the economic controls prescribed by the Central Government. It can be safely observed that political corruption disappears, such of administrative corruption as is directly encouraged and patronised by the politicians abates substantially, but individual corruption remains largely undiminished. A most distinguishing feature of President's rule is that public administration is in a firm position to check corruption and does in fact act swiftly and decisively against those with questionable integrity. A fear of getting caught lurks in the minds of evil-minded civil servants. Also, more civil servants get punished on charges of corruption under President's rule than under a popular regime. What is more, while there is a definite initial decline in corruption, it begins re-emerging in its old vigour after a while. But the bulk of honest Government servants flourish under this regime. However, corruption is a much more inclusive phenomenon having sociological, economic and political ramifications, and to regard President's rule as its cure is to exhibit ignorance about its true nature.

#### 6. *Development Administration comes to receive high priority under President's rule*

A verdict on the above question is not easy or unanimous. As the President's rule has been introduced in many cases on the break down of law and order in the State it has understandably remained preoccupied with the problems of general administration. Moreover, President's rule has unfailingly succeeded in maintaining peace and order, and its achievement in the field of general administration has become so conspicuous that in popular mind it is indelibly associated with law and order administration. While the truth of this aspect cannot be denied the fact appears to be that President's rule acquires the colour chosen by New Delhi—its inputs are

<sup>10</sup> *The Statesman*, 27 June 1951.

determined not locally but centrally. If, for instance, the President's rule has come after the ousting of an opposition party and is followed by a general election, the Central Government is seen to step up developmental activities, or at any rate concentrate on completing the socio-economic programmes whose progress earlier was rather tardy. This is not unusually a politically calculated move of the ruling party at the Centre to win the election. Again, if the application of Article 355 has followed widespread economic grievances on the part of the people in a State, development may come to receive a high priority. As the regional imbalance was the root of the popular agitation in Andhra Pradesh (1973) the President's rule was utilised by the Centre to initiate and complete a large number of programmes of economic development. The Central funds began flowing in massive doses.

Generally speaking, President's rule is characterised by a definite speeding up in the implementation of plans and programmes which had already been decided upon by the popular government. What remains held up on account of inter-party disputes also gets resolved more easily. However, decisions on new, major policies are normally allowed to wait until the return of the democratic Government in the State. Also, in certain states the pace of rural development became rather slow under President's rule and so was the case with the development of backward regions. This happens, for there is under President's rule an absence of watchful eyes to speak for them, take up their cause and insist upon implementation of suitable programmes. Generally speaking, developmental administration does receive a set back under President's rule, more so when it is of a shorter spell.

#### *7. The Central Government's bounties to the State increase significantly under President's rule*

The Central bounties do generally—but not invariably—increase under President's rule, there being apparently three principal reasons to account for this. Under President's rule the Centre comes in direct contact with the State concerned and in the process acquires a more intimate and detailed knowledge of that State's problems. The resultant awareness normally



leads to action. Secondly, as grave deficiencies of the popular regime have generally led to its down fall and to the imposition of Article 356, the Centre is naturally anxious to make good at least the more glaring shortcomings of the previous regime. Thirdly, New Delhi is understandably more generous in allocation of grants to the State where the Chief Minister supplanted by President's rule was a *persona non grata* with the Central political leadership. In a calculated bid to brighten the image of President's rule, New Delhi makes a conscious effort to give more funds to the State. Central funds flow more easily to a State which was ruled by an opposition party and where a general election is round the corner. Even when new grants are not made the legitimate schemes from the State which earlier could not be cleared by the Centre for a variety of reasons get sanctioned quickly and also the funds already sanctioned but not hitherto released begin to flow easily. Of course, the exact magnitude of Central grants depends upon the interest, personality and assertiveness of the Governor and his advisers and their equation with the Central leaders.

This apart, there appears to be a better utilisation of Central funds or, for that reason, of the State's own resources, under President's rule than under popular regime. Two droughts of more or less equal gravity visited West Bengal recently, one when the State was President-ruled under Dharam Vira and another when a popular Ministry was in office. The first one was managed with lesser resources.

### 3. *People prefer President's rule to popular rule*

This is a tricky question which can be answered only in the light of how much genuinely 'popular' has been the preceding Ministry. Many a popular Government remained engrossed in party wrangles, indulged in political horse-trading, consciously encouraged political interferences in public administration, mismanaged the affairs of the State; and understandably, people at large breathed a sigh of relief when the popular Ministry was jettisoned and President's rule was proclaimed. On the other hand, the President's rule was also viewed as a result of the political manoeuvring on the part of the Central Government. The reaction to it has been one of *resentment* and *anger*, contributing even to a measure of

alienation from the political system. Under the President's rule the State Government functionaries, especially the Governor and his advisers, undertake extensive tours of the State and seek to meet people and redress their grievances. But the greatest weakness of this rule is the absence of an institutional avenue to assess popular will. Despite all its weaknesses, the constitutional machinery consisting of a popular Ministry and Legislature is the single, most legitimate forum for articulation of people's problems and mobilising popular opinion on them. President's rule becomes for all practical purposes the rule of huretaocrats, and with the best will in the world, bureaucracy cannot but remain too tightly bound by rules and precedents to be able to see the human side of the problems under consideration. As a result, public administration becomes less open, less communicative and more secretive under President's rule. By and large the civil servants, especially those at middle and lower levels of administration, have no fear except the hierarchical one, and are seen by citizens to be rigid and even imperious in their demeanours. The bureau, even the noblest of it, is notoriously attuned to 'justice' than to mercy, and in this perspective, the politician, who has a human angle of viewing of affairs of the Government has a complementary role to perform in the ordering of affairs of the Government. At any rate, the novelty of President's rule is short-lived, and before long people do begin to yearn for the return of the popular regime.

That section of the society which has consistently remained, for a variety of reasons, outside the active ambit of public administration all these long years and have neither dipped into the benefits made available by it under the various welfare programmes nor tasted its cussedness beyond a level to which they have by and large become accustomed, remain generally unconcerned about who 'rules' them. But those who habitually come into contact with administration directly or indirectly begin itching for the restoration of democratic rule. Though the restiveness is fairly widespread, it becomes manifest much earlier in urban areas. In this context, it is interesting to note that the state of Kerala which has tasted President's rule much longer than any other State appears to have learnt the political art of evolving the mechanism of coalition Government to ensure political stability in the State; the popular Ministry which came

into power since the election of 1971 is still continuing, valiantly avoiding the other alternative of succumbing to the President's rule.

## ***Trends, Issues and Problems***

Article 356 has been pressed into service thirty-six times in the period of twenty-six-years that the Constitution has been in force. More remarkably, since 1967 the Centre's direct rule in the country has not ended even for once; one State or the other has always remained under President's rule ever since. Such a high frequency of its use was not visualised by the framers of the Constitution; they had, on the contrary, viewed this Article as an extraordinary provision meant only for really extraordinary circumstances and hoped that it would be invoked very grudgingly. But their expectations have been belied.

### **Presidential Election and Dissolution of State Legislature**

Under Article 62 of the Constitution the election of the new President must be completed before the date of expiry of five-year period of his predecessor. According to Article 54, which lays down the composition of the electoral college to elect the President, the electoral college comprises the elected members of both Houses of Parliament and the elected members of the Legislative Assemblies of the States. Can the Presidential election be held if there are vacancies among the members of the electoral college? To plug this loophole, the Constitution (Eleventh Amendment) Act, 1961, was passed, and as a result, a new clause, Article 71 (4) was inserted in the Constitution. This clause provides that the election of the President shall not be questioned on the ground of the existence of any vacancy

'for whatever reason' among the members of the electoral college electing him.

The question of the electoral college not being full, engaged the attention of the Supreme Court as early as 1957. At the time of the Presidential election in 1957, elections to four seats in Lok Sabha and in two Assembly constituencies in Punjab had not been completed. A candidate seeking election to Lok Sabha from one of the four constituencies where the election had been postponed took the matter to the Supreme Court to plead that if the Presidential election was held on 6 May 1957 he would be deprived of his right to vote for the election of the President. The Supreme Court refrained from expressing its opinion on the merits of this contention, declaring that all doubts and disputes concerning the presidential election should be brought before it only after the declaration of the result of the election. It was precisely to avoid any such questions being taken to the judiciary that the Parliament enacted clause (4) of Article 71. Can this amendment exclude an entire State from the electoral college? At the time of the sixth Presidential election, scheduled for August 1974, two Legislatures of Gujarat and Pondicherry stood abolished under the impact of Article 356 of the Constitution. Could the Presidential election be held when the electoral college did not include a single member representing the Legislative Assembly of Gujarat and Pondicherry?

Questions similar to these had been raised in Parliament when the proposal to insert clause (4) of Article 71 was under discussion in 1961. A.K. Sen, the Union Law Minister, did refer to a possibility of the President being elected even though the majority of the seats in the electoral college had not been filled up but in the same breath, he called it 'a theoretical possibility'. While speaking in the Lok Sabha on 5 December 1961, he observed: 'It seems that there is an apprehension in the minds of some honourable members...that there is a possibility of the President being elected even though only a minority of the members may be elected, in fact, before the majority of the seats are filled up. It is certainly a theoretical possibility though practically it is impossible to conceive that the Chief Election Commissioner would be calling for the election of the President without all the seats being filled up except those which cannot be filled up because of

climatic or other reasons.... Let us leave it to common sense."<sup>1</sup>

The dissolution of the Gujarat Assembly in March 1974 created an unprecedented situation in as much as an entire State was to be deprived of the right to participate in the presidential election due in September 1974. Many in the country including the opposition parties were feeling concerned over this situation. H.R. Gokhale, the Law Minister, said in Lok Sabha, 'The Government is *prima facie* of the view that on a true and correct interpretation of Articles 54, 55, 62 and 71 of the Constitution the electoral college consists only of the legislative assemblies of the States as are in existence at or before the expiry of the term of office of the President.' However, he said that in view of prevailing opinion to the contrary the Government has decided to seek the advisory opinion of the Supreme Court.<sup>2</sup>

The Supreme Court gave its advisory opinion to the effect that the Presidential election must be held before the expiry of the five year term of V.V. Giri, the retiring President, notwithstanding the dissolution of the Gujarat Assembly. The Court's opinion was that the Presidential election 'must be held before the expiration of the term of the President notwithstanding the fact that at the time of such election the legislative Assembly of a State is dissolved.'<sup>3</sup> The State Assemblies and Parliament do not form the units of the electoral college, the units are the elected members of these bodies. The electoral college consists only of members existing at the time of Presidential election. The parity envisaged in the Constitution is not between each State separately as a unit on the one hand and the Union on the other but between the States as a whole and the Union. The election of the President cannot be questioned

<sup>1</sup>Lok Sabha Debates, Vol. LX, No. 13, col. 3265-9.

<sup>2</sup>Lok Sabha Debates, Fifth Series, Vol XXXIX, No. 46, 29 April 1974, col. 454.

<sup>3</sup>This advice was sought under Article 143 (1) of the Constitution. This was the sixth occasion since the Constitution came into force in 1950 that the advisory opinion of the Supreme Court was sought. The earlier references related to the Delhi Laws Act, the Kerala Education Bill, the U.P. Legislative Assembly Privileges, the Berubari Case, and the Sea Customs Act.

<sup>4</sup>The Statesman, 6 June 1974.

on the grounds of any existing vacancy, for whatever reasons, among the members of the electoral college. The dissolution of an Assembly cannot impede a Presidential election. Finally, the President can continue in office after the expiry of his terms only in the event of his successor not being able to assume office though elected. This, in brief, was the advisory opinion given by the Supreme Court.

It needs to be noted that it was only the advisory opinion of the Court, and in no way binding on it. Further, although the reference by the President sought the Supreme Court's opinion on six points, the Court declined to express its opinion on (i) *mala fide* dissolution of a State Assembly or Assemblies, (ii) *mala fide* refusal to hold elections within reasonable time and (iii) on the effect of the dissolution of a substantial number of State Legislative Assemblies before the Presidential election. Nevertheless the gravity of consequences following from such a situation cannot be minimised. The following warning sounded by B. Shiva Rao is quite apt: 'If an entire State can be excluded from the presidential election, it would be open to a resourceful Central Government to bring about situations in which two or more State Assemblies might be dissolved through recourse to article 356 of the Constitution, if it is feared that they might upset the chances of the party in power of getting their candidate elected.'<sup>4</sup>

### Causes of President's Rule

President's rule has been imposed to cope with situations of political instability in the States but also to subserve other ends—and that, too, on a liberal scale. The following table describes the immediate causes of President's rule in the States:

Punjab (1968)	Fall of a minority Government when the Congress which was propping it up withdrew its support.
Bihar (1969)	Fall of a minority on account of defections and no other party able to form an alternative Ministry.
Bihar (1969)	Defections; fall of the Ministry.
West Bengal (1970)	Chief Minister voluntarily resigned. Governor asked the CPIM, the single largest party in the Assembly, to furnish evidence of its majority. CPIM wanted majority to be tested in the Assembly. Governor recommended President's rule.
Kerala (1970)	Chief Minister advised dissolution of Assembly. Governor dissolved the Assembly. Chief Minister resigned. President's rule introduced.
Uttar Pradesh (1970)	One of the two partners withdrew. Governor asked Chief Minister to resign. On his refusal the Governor recommended President's rule.
Orissa (1971)	One of the two partners withdrew support. Chief Minister resigned. Governor explored the possibility of forming alternative Ministry. No party being able to form the Government, Governor recommended President's rule.
Mysore (1971)	Defections.
Gujarat (1971)	Defections.
Punjab (1971)	Minority Government. Congress withdrew its support. Sensing withdrawal of support Chief Minister advised dissolution of Assembly. Governor dissolved the Assembly. President's rule became inevitable as budget had to be passed.
West Bengal (1971)	Chief Minister faced defections, advised dissolution of Assembly



## CAUSES OF PRESIDENT'S RULE

<i>State</i>	<i>Cause</i>
	which the Governor did, Chief Minister later resigned and Governor recommended President's rule.
Bihar (1972)	The major partner in the coalition asked for mid-term poll and the ruling coalition resigned. Governor recommended President's rule.
Manipur (1972)	When elevated to statchood did not have an Assembly. President's rule was a constitutional necessity before elections could be held.
Tripura (1972)	As in Manipur.
Andhra Pradesh (1973)	Party instructions.
Orissa (1973)	Ruling party lost majority by defections. Governor did not invite the leader of the second largest party; instead recommended President's rule.
Manipur (1973)	Defection wrecked the Ministry. Governor did not invite the opposition on the ground of there being 'professional defectors' in Manipur and recommended President's rule.
Uttar Pradesh (1973)	Party instructions.
Gujarat (1974)	Popular agitation against the Ministry. Ministry resigned and President's rule introduced.
Nagaland (1975)	Defections; but President's rule continued beyond six months on the ground that the implementation of the accord between the Naga underground and the Central Government had reached a crucial state and 'we should not do anything to vitiate the atmosphere by holding early elections.'
Uttar Pradesh (1975)	Party instructions.
Tamil Nadu (1976)	Dismissal by Centre on grounds of corruption.
Gujarat	Defections.

It would appear from the above table that President's rule was not, honestly speaking, called for on all the thirty-six instances although in some cases it could perhaps have even come earlier. But on some cases it was not strictly necessary and what is more dismaying, in a large number of instances the return of popular Government was postponed more for political reasons than administrative ones. There is a crying need for sound guidelines to direct President's rule, so that constitutional obligations do not get subordinated to political expediencies. The country has not cared very much to evolve sound conventions to regulate the use of Article 356, and it is permissible to speculate that this Article is likely to remain enmeshed in politics of a narrow perspective. Such a trend can be traced to the mid-sixties, and the instance of Tamil Nadu is a pointer to the opening up of still newer dimensions for the clamping of President's rule in the States.

Integral to the theory and practice of the President's rule is the discretionary judgement of the Governor and even more of the Central Government. There is a need for suitable conventions and protocol regulating norms governing Presidential take-over of State Government. These should include the following:

(1) The place for testing the majority of the ruling party or alliance is the Assembly, and Assembly only. (2) The Governor should enjoy the power to convene the meeting of the State Assembly at his discretion whenever he has doubts about the ruling party's majority. (3) When a Ministry falls the Governor must invite the leader of the second largest party or alliance in the Assembly to form the Government and should not give in to his proclivities while performing constitutional duties. The invitation's validity must cease after a period which must be fixed on the basis of a national consensus and which must be adhered to by all the Governors and must not be questioned by political parties. (4) The Governor should recommend President's rule only when no party is able or willing to form the Ministry. (5) The Central Government should wait for the Governor's report before initiating action. The Governor, being the person on the spot, should have complete discretion about the contents of his report to the President. (6) The Central Government's action should be the modelled on lines

recommended by the Governor in his report. (7) It would be good if the introduction of President's rule is ordinarily preceded by a warning to the erring State so that it has a chance to rectify its affairs. The Centre must sound the alarm bells ringing fairly in advance before deciding on the use of Article 356. The observation made by B.R. Ambedkar should as far as practicable be acted upon. (8) The date for the termination of President's rule ought not to exceed six to eight months. (9) The election to the State Assembly should be held at a short notice and the whole procedure prescribed by the Election Commission for filling of nominations, withdrawal etc., should be reasonably modified to make election less time consuming. (10) It should be the Governor's constitutional duty to keep President's rule non-partisan, and the Central Government should do nothing to make his tasks difficult. Good administration alone should be the overriding consideration of his actions and preferably he should channelise all efforts to rescue his State from conditions which led to President's rule. Simultaneously, the political parties must accept with complete grace and without any reservations the introduction of President's rule in the State.

### **President's rule in Tamil Nadu**

President's rule in Tamil Nadu (1976) discovered altogether new and novel dimensions for the application of Article 356 of the Constitution, making it, in the process, a completely open-ended one. To recall, the DMK Ministry in Tamil Nadu was dismissed from office principally on the ground that it indulged in corruption and held out 'veiled threats of secession'. Without going into the merits of each allegation it is necessary to emphasize at the outset that these are indeed grave matters and pertain to no single Ministry or single State. Coming to the question of secession, there must be (indeed, already are) standing laws of the land to deal with it and that too with swiftness and severity. Similarly, the charges of corruption against political leadership of the land have not been made for the first time. There must be a standing machinery in the country to look into them as and when they

are made. No level of government can be completely and eternally immune to corruption and arrogance of power. It is indeed for this purpose that institution like ombudsman is demanded in the country. Lok Pals and Lok Ayuktas are the institutional devices to probe into acts of mal-administration. But to invoke the tool of President's rule against a State on such charges is to set up a dangerous precedent in this field. In brief, regular institutional mechanisms must be installed to examine the kinds of charges levelled against the DMK Ministry in Tamil Nadu, and a constitutional provision like Article 356 must not have any place in such cases.

### Coalition Governments

Out of 36 ministries that have gone under President's rule, 20 have been coalitions. The first coalition to have formed the Ministry and later to have succumbed to President's rule was in Pepsu. But it was only after the fourth general election of 1967 that political India became so coalition-intensive that, for some time, the entire belt consisting of Punjab, Haryana, Uttar Pradesh, Bihar, West Bengal, Madhy Pradesh and Orissa became coalitional. Although the Congress has also formed partnership Governments in several States despite the fact that it finds a coalition unflattering to its traditional image and ego, this has been a favourite form of Government primarily with the non-Congress political parties. This is understandable. Political parties other than the Congress are generally weak and have to enter into collaboration to form this Ministry.

The coalition ministries may be classified into two broad categories. Some came into existence *after* the election while a few had formed an alliance and formulated a commonly agreed programme *before* the poll and thus unitedly went to the hustings and later even formed the Government. Many coalitions, especially those formed during the period 1967-69, swam to political power with the negative determination to keep the traditionally ruling party, the Congress, at bay. They generally lacked a positive and realistic programme and what is more, a genuine determination to implement it; at any rate they constituted an ideologically heterogeneous combination

such that they could not pull on for long. Nor did they have a state-wide perspective, much less an over-all view of things immersed as they were in their own narrower pursuits. Each of the constituent unit was generally more eager to improve its own political stock than to promote harmonious functioning of the coalition. One may here give an example to highlight the motivating force of a coalition Ministry of this period. Apparently giving a high priority to road construction programme in the State, one coalition ministry in Uttar Pradesh sanctioned a scheme under which each of the supporting legislators' constituencies was to get a couple of kilometres of road! Even where the coalition partners have unitedly passed through the rigours of election and are ideologically compatible, when confronted with the actual tasks of administration, they may find the going rather difficult. More so when it is a multi-party coalition with only a limited majority; a thin majority is apt to make the coalition highly vulnerable to pressures, especially from Independents whose frailty is generally more notorious than even that of women. This highlights the criticality of the human factor in coalitions. Its importance is all the more because Indian politics is perhaps too excessively personalised and very inadequately institutionalised. At any rate, an ideologically compatible coalition has led to a reasonably stable Government as in the case of Orissa and even Kerala. Another factor contributing to the stability of a coalition Ministry is that the partners in it should find anchorage in a party which enjoys considerable strength in the Legislature. Coalitions are likely to prove unstable in the absence or denial of this kind of anchorage by the party capable of providing it.

The President's rule in U.P. in 1970 put in sharp focus the position of the Chief Minister in a coalition Ministry. According to the view of Gopala Reddy, the Governor of UP, the Chief Minister belonging a minority party ought to resign when the majority party in the coalition withdraws its support. This view is open to serious objections, and may not be tenable. The Constitution makes no mention of coalitions or of majority Governments or minority Government. All that it says is that the Council of Ministers shall be collectively responsible to the Legislature. Thus the real test is whether the Chief Minister

enjoys the majority support in the Assembly or not. It should be left to the Legislature to answer this. The gubernatorial action to supplant or circumvent parliamentary processes is apt to weaken the roots of democracy.

A brief description of the administrative devices which keep together the various constituents of the coalition Ministry is necessary. While each coalition Ministry evolved its own details, the broad structure was more or less similar. What the Samyukta Vidhayak Dal (SVD) of Uttar Pradesh (1967-68) did is discussed here. The six political parties which had come together to form the coalition Ministry had constituted a coordinating committee at the apex level to formulate common programmes to be taken up by the SVD Government and, further, to bring about synchronisation of efforts among the various constituent parties. The coordination committee used to hold its meetings regularly. There was also a general body of the SVD which used to meet occasionally. The Samyukta Vidhyak Dal (SVD) Government began facing problems soon after its coming into power. The constituent units felt that they were not being taken sufficiently into confidence in the running of the Government and they were unanimous in their determination that the coordination committee should have supreme authority over the cabinet, 'just as a party high command has over the Chief Minister in a one-party Government.' Likewise, the decisions of the coordination committee were final and binding on all the constituent members of the coalition. Indeed, the Samyukta Vidhayak Dal formally passed a resolution to affirm that the coordination committee would be the supreme policy making body of the SVD and the SVD Government was bound to carry out its unanimous decisions.<sup>6</sup> However, the precise relationship between the coordination committee and the general body of the SVD was not made very clear. Who could elect the leader of the SVD remained a moot point. While some constituents of the SVD argued that it was the prerogative of the Coordination Committee, others considered this to be the right of the general body.<sup>7</sup>

<sup>6</sup>*The Hindustan Times*, 19 January 1963.

<sup>7</sup>*National Herald*, 23 January 1963.

*Minority Governments*

One may also say a word about the invisible coalition termed as a 'minority government'. There have been three cases of minority ministry in India: P. C. Ghosh Ministry in West Bengal (1967-68), B. P. Mandal Ministry in Bihar (1968) and L. S. Gill Ministry in Punjab (1968). Each of them had a short life. This kind of arrangement did neither command any respect nor ensure efficiency in administration.

**Defections**

Except where President's rule was either voluntarily courted<sup>8</sup> or imposed by the Centre in its role as the nation's conscience-keeper,<sup>9</sup> Article 356 has come into force in the event of (a) floor-crossing by legislators belonging to the ruling party<sup>10</sup> or alliance or (b) formal break-up of the ruling coalition.<sup>11</sup> At least 11 out of the total of 36 ministries fell on account of defections by party or alliance members. Although it was for the first time in 1954 that defections caused the President's rule (in Andhra), the problem of change of party allegiance by legislators assumed disturbing dimensions only after the fourth general election held in 1967. This election marked a land mark, even if temporary, in the Indian political system. The Congress Party emerged with much reduced majority in the Lok Sabha (283 members in a House of 520). The reduction in its number was much more at the State level. Its losses were the gains of the opposition but none of the other parties could get a commanding position in the State Legislatures, not unexpected in a multi-party system. The political picture became confusing as the result of the emergence of a large number of Independents; their number in all the State Assemblies shot up from 261 (out of 3225) in 1962 to 375 (out of 3486) in 1967. In the emerging context of political fluidity reflected in the razor-thin majorities of ministries in most States, the individual legislator came to realise, perhaps for the

<sup>8</sup>For example in Punjab (1951 and 1966), Uttar Pradesh (June-November 1973 and November-January, 1975-76).

<sup>9</sup>Kerala (1959) and Tamil Nadu (1976).

<sup>10</sup>Andhra Pradesh (1954).

<sup>11</sup>Orissa (1961 and 1971).

first time, his importance as a key figure in the making and unmaking of governments and each party was put under terrific pressures from its members. In the short period between March 1967 and February 1968 at least 438 defections by legislators took place most of them being for personal gains. In a period of three years, between 1967 and 1970, about eight hundred State Legislators changed their party allegiance. Each President's rule caused by floor-crossing by footloose legislators reflects the strains under which the parliamentary system in India has been functioning. In the absence of any convention evolved and enforced by the political parties or law regulating change of party allegiance by legislators, the electorate alone can punish them for their unprincipled behaviour. Although suggestions have from time to time been made to provide for recall of legislators, to limit the size of the Council of Ministers, to bar the appointment as minister of a defecting legislator for a prescribed period or until he goes back to the electorate and gets re-elected, etc., no concrete steps in this regard have so far been taken.

### **Favourite Season of President's Rule**

The months of February and March have proved to be fatal for many a Ministry, particularly the ones surviving on a slim majority. As many as 15 of them have given way to President's rule in these months alone. This is the time when the State Legislature remains in its budget session, which is the longest one. Not only do the internal conflicts surface more copiously at this time but also the toppling game is pursued with deadly seriousness. On quite a few occasions the popular ministry did not even succeed in having the annual budget passed and as a result the Parliament was called upon to vote for it. There have been instances of the State Assembly not passing even a 'vote on account' before its dissolution under President's rule. Above all, this session, which may not be adjourned abruptly, offers extended opportunities of defeating the ruling party, thereby paving way for the application of Article 356.



### Suspension of the Legislature

In seven out of the total of 36 occasions of President's rule in the country, the Legislative Assembly was kept in a state of suspended animation. This number 7 does not take into account those occasions when an Assembly was suspended to begin with but dissolved subsequently. These seven cases are: Punjab (1966), Rajasthan (1967), Bihar (1969), Andhra Pradesh (1973), Uttar Pradesh (1973) and Uttar Pradesh (1975). In all except one case the Ministry which assumed office when Article 356 was revoked was the Congress one. When President's rule is accompanied by suspension of the Legislature, it is designed as a doubly temporary feature, intended for very short periods. The political activities remain sustained, often intensified, but are solely directed towards the formation of a ministry in the State concerned. It is also noteworthy that the legislators have not been treated alike in all these seven occasions. In the case of President's rule in Rajasthan (1967) the salaries of the Speaker as well as legislators were suspended. But in other instances of President's rule the legislators have continued to get their salaries, free housing, free medical treatment and travelling coupon facilities. There is absolutely no justification for duality of practices in this regard, and there must be a uniform treatment to legislators of suspended Assemblies. But the ministers cease to be ministers and their salaries and housing facilities do not exceed those enjoyed by legislators. They have also to give up their cars and vacate the official residence unless they wish to pay the higher rental.

### Duration of President's Rule

President's rule must be viewed as a crisis measure and as such the restoration of responsible Government must be expeditious. At any rate, it must terminate within six to eight months<sup>12</sup> of its introduction. It may also be considered

<sup>12</sup>This period is computed on the basis of two months' validity of President's rule on its own and six months' validity on parliamentary approval.

whether it is 'feasible to have' election to the State Assembly organised at a shorter notice. The issues involved in such a mid-term poll are generally limited and clear; and, moreover, have already been quite sharply focussed and debated. Therefore, the normal programme of election prepared by the Election Commission for holding of general elections may be suitably modified, and a shorter notice may suffice. A possible argument against this proposal is that the non-Congress parties may find themselves at a disadvantage, generally lacking the resources and the organisational skill of the Congress. At any rate, it needs to be discussed more widely and a national consensus must be evolved on this question.

### **President's Rule as Cure for Party Feuds**

On at least 5 occasions the President's rule has been invoked to rescue the ruling Congress Party from its internal wrangles, a device which did not in the least infringe the formalities associated with President's rule but whose morality was doubtful. The first ever President's rule in India was politically contrived. The Congress party in the Punjab (1951) under the Chief Ministership of Gopi Chand Bhargava enjoyed undisputed majority in the Legislature but the national leadership of the Congress Party directed him to resign in view of the factions within the State-level party and thus seek President's rule in Punjab. Again, Kamalapati Tripathi, the Congress Chief Minister of Uttar Pradesh in 1973, was directed by the national leadership of his party to step out of office and seek President's rule, for the Central leadership of the party could not in the mean time make up its mind about his successor. Another instance of this nature occurred even more recently. In November 1975 H.N. Bahuguna, Congress Chief Minister of Uttar Pradesh, resigned on a directive from the national party leadership but the latter, anxious to seek some more time to decide on his successor, induced Bahuguna to resign thus leaving the Governor with no option but to seek the application of Article 356 in the State.

It is arguable whether a party put into a majority by the electorate step down from office, recommend President's rule

including the suspension of the Legislature and, finally, form the Government just on the eve of the poll. When a party goes to the people for vote, and does get put into power, it enters into a kind of contract with the electorate. Not to run the Government while still in majority and yet to keep the Legislature suspended, thus denying them an opportunity of entering into a fresh contract, is a violation of the contract itself and besides unethical.

### **President's Rule and Parliamentary Committees**

The Parliament takes upon itself the role and functions of the State Legislature but in practice wide gaps may be easily discerned in parliamentary interest and concern. As at the Centre, the Committees of the State Legislature, especially the Public Accounts Committee, the Estimates Committee and the committee on Public Undertakings, carry out in-depth scrutiny of aspects and segments of State public administration. With the dissolution or even suspension of the Assembly, these Committees too become extinct or (in the case of suspension of the Legislature) inactive and this role is not in practice taken over by the corresponding Parliamentary Committees. Technically, the latter are not barred under President's rule from investigating sectors of State administration but the agenda of parliamentary committees is already too heavy to permit the taking over of new work. In short, under President's rule the State administration remains, in practice, immune from parliamentary investigations. The Parliamentary Committees may perhaps consider whether it is possible to set up sub-groups which could address themselves to the problems of the State under President's rule.

### **Impartiality of President's Rule and One Party Dominance System**

President's rule faces a dilemma not quite easy to resolve. This rule is expected to be completely impartial. In official circulars and notifications issued on the introduction of President's

rule, the civil servants are specifically asked to be absolutely objective in their dealings with members of the public as well as of the political parties. This, however, appears to be easier said than done. As the same political party, namely the Congress, is most likely to return to office in the single party dominance system of the country and, moreover, as virtually the same faces are likely to occupy ministerial positions, many civil servants have learnt to accommodate, to varying degrees, the demands and encroachments of these 'erstwhile masters' (as one high-ranking civil servant told the author). Also, the political colour of the Centre is of late increasingly projecting itself in its response to the State under Article 356, and viewed in this context, President's rule runs the risk of opening up yet another but most powerful channel for New Delhi's influence. Of course, the Governor may act as a buffer between the bureaucracy and these outside forces. Indeed, the stuff the Governor is made of is the most critical single factor determining the effectiveness and objectivity of President's rule. Whether persons having the necessary independence and personality would be preferred for the gubernatorial office, however, is a moot point. While discussing this aspect one is irresistably reminded of a Central innovation made in 1971 of appointing a minister in charge of the State under President's rule. This device is briefly discussed here.

### Central Minister for the State under Article 356

Simultaneously with the imposition of President's rule in West Bengal on 29 June 1971, the Central Government announced the appointment of Siddharth Shankar Ray, the Education Minister, as the Minister without Portfolio in charge of West Bengal Affairs. Announcing this appointment in the Lok Sabha, Prime Minister Indira Gandhi said: 'The Central Government are anxious that all problems relating to West Bengal which are within their competence should be dealt with expeditiously. Very serious problems and an abnormal situation have been created in West Bengal and some other States by the massive influx of refugees in so short a period. These matters need to be given special attention and tackled urgently. It has, there-

fore, been decided to appoint a Minister of Cabinet rank as minister without portfolio with immediate effect.<sup>13</sup> Explaining to the press<sup>14</sup> the nature of his office, Siddhartha Shankar Ray said that he was to function as the representative of the Central Cabinet and to exercise the Presidential power of 'superintendence, control and direction' which the President does on the advice of the Council of Ministers, in respect of issues that were within the competence of the Central Government. On the face of it, this made his position higher than the Governor, at least in that sphere which he decided to handle directly, thereby leading to a power conflict with the latter.

The appointment of a Central Minister to deal with the affairs of a State under Article 356 was first of its kind in the history of President's rule in India. The appointment of a Minister in charge of West Bengal came in for severe criticism both in Parliament and outside. This was viewed as undermining the status and standing of the Governor as President's delegate under President's rule. Its constitutionality, therefore, was subject to serious questioning. Nor was the soundness of this practice very apparent. By interposing a functionary between the President and the Governor it contained within itself seeds of dyarchy and discord. What is more, President's rule should remain devoid of political colour as far as possible, but the appointment of a Minister in charge of West Bengal Affairs raised doubts over the political neutrality of such an administration. Hiren Mukherjee considered this appointment as constitutionally not 'above board'.<sup>15</sup> Writing under the title 'To be Seen as Just' *The Statesman* pointed out: 'As West Bengal's super Chief Minister under President's rule, Mr. Siddhartha Shankar Ray can scarcely add to the credibility of the President's non-partisan role. What West Bengal needs and has indeed needed for a long time is a new Governor and not a Central Minister to take over the Governor's functions.'<sup>16</sup> Although the Governor, S.S. Dhavan, was soon replaced by A.S. Dias who

<sup>13</sup>*Lok Sabha Debates, Fifth Series, Vol. IV, No. 27, 29 June 1971, col. 282.*

<sup>14</sup>*The Statesman, 4 July 1971.*

<sup>15</sup>*Lok Sabha Debates, Fifth Series, Vol. VI No. 46, 26 July 1971, col. 145.*

<sup>16</sup>*The Statesman, 4 July 1971.*

was a professional administrator himself, Siddartha Shankar Ray continued as the Minister for West Bengal Affairs and even had an office in Calcutta to look after his work in the State.

### Nature of President's Rule

President's rule may not be a mere caretaker Government, but it is most certainly not on all fours with a popular Government. A popularly elected regime has to necessarily invoke the political and legislative processes while making policies, and when assured of this support it is both politically and morally upright for it to decide on major policies and take up their execution. Not so anointed is the President's rule which is characterised, more than anything else, by a deliberate suspension of the democratic processes in the State. The argument that Parliament steps in the moment the Legislature is snuffed out of existence is not convincing because the former is no substitute for the normal State-level political institutions and processes. But at the same time, the other extreme of administrative immobilism and letting grass grow under the feet till the return of democracy is also to be avoided. The President's rule must, therefore, take up the delicate task of maintaining a balance between issues of long-term nature and matters requiring short range decisions and execute the latter. Equally pressing is the need for identification of problems entailing political implications and keeping away from them. By the same token, it must not ordinarily attempt to undo the policies and programmes set in motion by the previous popular Government. President's rule must not be viewed as a corrective mechanism. Otherwise, democracy will have no inducement to evolve and apply self-discipline.

Allied to the foregoing discussion is a proclivity to employ President's rule to rescue the ruling political party which was unable or unwilling to make embarrassing choices. The case of Punjab under the Chief Ministership of Ram Kishan in 1966 is an apt one. Before its bifurcation into the two States of Punjab and Haryana, Punjab had the Congress Ministry under the Chief Ministership of Ram Kishan. The State Government had at this moment of time to take decisions

on many tricky matters such as division of assets and liabilities between the two emerging States which the popular Ministry was loath to do. It, therefore, resigned, forcing President's rule on the State. Should a popular Government shy away from tasks of governance even if these are difficult or embarrassing in their nature? In all fairness, President's rule should not be invoked to accomplish the 'dirty' work of administration.

The aspect of accountability of State Government under President's rule has already been discussed in a separate chapter but one has to revert to it because of its pressing importance in a democratic system. Under President's rule the accountability becomes remote, feeble, uneven, and blurred. The duration of President's rule should, therefore, be kept as short as possible. Additionally, the Consultative Committee of MPs, which begins to function as a mini-Parliament, needs to be re-structured to make it a more active body. Not only should it include all the Members of Parliament representing the State under Article 356 but its proceedings should also be publicised and reported in the press—to educate the public opinion.

President's rule should shun another danger to which it has of late been exposed almost as a deliberate part of public relations. An obsession with the ruling elite to build up a bright image of President's rule and, by contrast, to score points over the preceding popular rule has occasionally led it to play political and administrative stunts such as large scale administrative transfers, out of proportion punishment to a few, etc., the effects of which may prove to be gravely harmful in the long run. Indeed, such actions have become so common of late that many civil servants really do not know at the time when President's rule is announced whether they are on their head or their heels. Such an administrative surgery breeds a tendency towards window-dressing which has an effect on diverting the civil servants from going to the roots of the problems. Nor should highly coloured success stories of President's rule be encouraged or connived at, for all this is bound to have an unsavoury backlash. President's rule in a democracy is a necessary evil and must continue to be viewed as such. If a State Government is fallible so is the Centre.

The Central Government is equally subject to political pulls and pressures. After all, recruitment to the political cadres of the Central and State Government takes place from the same source and it would be manifestly incorrect and unfair to ascribe political foibles to the State levels only. Except for weakening the stature of State Governments in the country's constitutional system, President's rule can hardly claim any long-range effects. This, of course, is subject to one correction, which is discussed below.

### President's Rule and Political Stability

However distasteful it may sound, the very political use of Article 356 contributed towards a sort of stability in the States. Legislative floor-crossing gets encouraged when a party other than the party in power enjoys a fair prospect of forming the Government. As demonstrated with telling effect by the Orissa episode of 1973, this is firmly discouraged with President's rule, especially floor-crossing from amongst the ranks of the ruling party. Normally, legislators defect only when the alternative is a new Government, not President's rule.



## Appendix I

### *Text of the West Bengal Governor's Report to the President, dated 15 February 1968*

Raj Bhavan  
Calcutta  
15 February 1968

My dear Rashtrapatiji,

As you are aware the United Front Ministry led by Shri Ajoy Kumar Mukherji as the Chief Minister ceased to hold office on the 21st November 1967 and a Ministry headed by Dr. P.C. Ghosh, leader of the newly formed Progressive Democratic Front, and supported by the Congress Legislature Party, was sworn in on the same day. I enclose a copy of the Press announcement<sup>1</sup> from Raj Bhavan of the 21st November 1967, which gives the necessary background in this regard and which I authorised for issue at the time. Also enclosed are copies of the relevant Gazette Notifications<sup>2</sup> on the subject.

On the advice of the new Chief Minister, Dr. P.C. Ghosh, I summoned a session of the State Legislature to meet on the 29th November 1967. At the commencement of the sitting of the Legislative Assembly on that date and before any other business could be taken up, the Speaker made a written statement in the first paragraph of which he remarked as follows:

I am *prima facie* satisfied that the dissolution of the Ministry headed by Shri Ajoy Kumar Mukherjee, the appointment of Dr. P.C. Ghosh as Chief Minister and the

<sup>1</sup>Not reproduced.

<sup>2</sup>Not reproduced.

summoning of the House on his advice is unconstitutional and invalid since it has been effected behind the back of this House. Pending a full and proper examination of the matter, in exercise of the powers vested in me under Rule 15 of the Rules of Procedure of this Assembly I adjourn the House *sine die*.

I enclose a copy of the Speaker's statement.<sup>3</sup> This was followed by complete pandemonium in the House during which the Chief Minister was hit by a heavy metallic object hurled towards him causing him, fortunately, only a minor injury. The Legislative Council also met on the same date and passed a motion of confidence in the Ministry headed by Dr. P.C. Ghosh.

On the advice of the Chief Minister I prorogued the Legislative Assembly with effect from the 30th November 1967 and also on his advice, the Legislative Council with effect from the 1st December 1967.

On the 21st November 1967 I had sworn-in the two other Ministers belonging to the Progressive Democratic Front along with the Chief Minister. The Ministry was subsequently enlarged by the addition of four Ministers and four Ministers of State, all belonging to the Progressive Democratic Front. The Congress Party in the State Legislature later decided to form a coalition with the Progressive Democratic Front and on the 15th January 1968, six Ministers, belonging to the Congress Party, were appointed on the Chief Minister's advice. The Progressive Democratic Front-Congress coalition Ministry thus came to consist of the Chief Minister, twelve Ministers and four Ministers of State.

The legality of the appointment of the Ghosh Ministry was contested by three writ petitions in the Calcutta High Court. On the 6th February, a Judge of the Calcutta High Court after a contested hearing delivered an elaborate judgment and upheld my legal competence to take the action I had taken as Governor of the State. A copy of the judgment is enclosed.<sup>4</sup> I understand that an appeal has been filed before the Appeal Bench of the High Court against that judgment.

<sup>3</sup>Not reproduced.

<sup>4</sup>Not reproduced.

On the 11th February, 18 MLAs wrote to me withdrawing their support to the Progressive Democratic Front-Congress Coalition Government from that date. Some of them also came to see me along with Shri Ashutosh Ghosh, MLC. These MLAs formed a front called the Indian National Democratic Front under the leadership of Shri Sankardas Banerji, MLA. There were some talks between the MLAs who formed this front and the United Front leaders for forming an alternative Government. In this connection Shri Ajoy Kumar Mukherji, leader of the United Front and former Chief Minister, met me on 13th February. They handed over to me a copy of their letter to Shri Sankardas Banerji offering the United Front's support to his party on certain conditions. They said that as the Congress-Progressive Democratic Front Coalition had lost its majority, that Ministry should be dismissed and Shri Sankardas Banerji invited to form a new Government with the United Front support. I told them that as the Assembly was to meet on the 14th February, the question of relative strength of the parties could easily be decided on the floor of the Assembly. I pointed out to Shri Ajoy Kumar Mukherji that this was the identical advice I had given to him and only when he disregarded my advice that other action by me followed.

I also told them that their letter to Shri Sankardas Banerji had not yet conveyed to me his acceptance of these conditions. In fact Shri Banerji has not accepted one of the conditions and the question of UFINDF collaboration is still open. There was also something in the papers about certain sections of the United Front not being in favour of supporting a Ministry headed by Shri Sankardas Banerji and this also made the position in regard to Shri Shankardas Banerji commanding a majority doubtful. All these matters could best be decided on the floor of the House.

Shri Ajoy Mukherji and Shri Jyoti Basu thereafter requested me not to address the Joint Session of the Assembly and the Council on the 14th February as they did not like any unseemly incidents to occur. I told them that I had certain constitutional obligations and they had to be discharged. Merely a danger of incidents could not deter me from discharging my constitutional obligations. Thereafter Shri

Ajoy and Shri Jyoti Basu urged that I should recommend to you the President's rule because if the President's rule could be introduced even for a day they would withdraw the agitation against the calling of the Assembly being illegal and would not mind if thereafter, if I thought that Dr. P.C. Ghosh enjoyed a majority, I invited him to form a Government again.

I told them that the question of President's rule or some other action could be considered only after the Assembly had met. These matters could not be decided in advance.

The first session of the State Legislature for 1968 was summoned by me on the advice of the Chief Minister to meet on the 14th February 1968. According to the Constitution I was required to address a joint sitting of both the Houses of the Legislature. After the Legislature was summoned the leaders of the United Front declared that they would prevent me from entering the Legislature and delivering my address and would do everything to disrupt the functioning of the Assembly. When I went to the Assembly to deliver my address a determined group of MLAs belonging to the United Front demonstrated against me and attempted to prevent me from entering the Legislative Chamber through the usual entrance. However, I was able to go into the Legislative Chamber by a side entrance and amidst great pandemonium, began reading my address. I was able to read only a portion of my address explaining the causes of the summons and because of the pandemonium there was no point in my continuing to read my address, I left the Chamber.

The Legislative Assembly and the Legislative Council were due to meet again at separate sittings at 4-30 p.m. in order that a report of my speech could be made and certain consequential actions taken in accordance with the Rules of Procedure of each House. I have been informed that the warning bell which is sounded regarding the meeting of the House was not of the usual duration and the Speaker actually entered the House a few minutes before 4-30 p.m., hurriedly gave the following ruling and adjourned the Assembly *sine die*:

Honourable Members I beg to report that on the last occasion I gave my ruling on the 29th November, I adjourn the House only because since then there has been

no final decision as yet made and that there is no compelling necessity either by judicial discussion or decision by any competent authority, if there be any, to change my ruling.

I adjourn the House *sine die*.

In the Legislative Council the Chairman informed the House that I had addressed a joint sitting of both the Houses of Legislature and placed a copy of my address on the table of the House. A Motion of Thanks was thereafter proposed by one of the members of the Council and seconded by another and after this the Chairman of the Council adjourned the House till 3 p.m. on the 20th February.

As the Speaker has adhered to his earlier view and adjourned the Assembly *sine die* again despite the clear judgment of the High Court regarding the legality of the appointment of the present Ministry no useful purpose is likely to be served by attempting to summon the Assembly again after proroguing it as on the last occasion, as there is every likelihood that the Speaker would continue to adhere to his past stand. Yet the present session of the Legislature is scheduled to consider the State Budget and a number of important legislative measures including Bills for enactment of Ordinances within a given time. It is, therefore, of the utmost importance that the present Assembly is enabled to function in the normal way as soon as possible, especially as the view which the Speaker has given for not allowing it to function has already been found untenable by the High Court. It is, however, clear that it will be impossible to hold any session of the Assembly so long as the present Speaker continues to adhere to his view and does not enable the House to transact urgent and important business.

To sum up, there are two questions that have to be thought over, namely,

- (1) That the present position in regard to the relative strengths of the various parties is very fluid. It is not quite certain that Dr. P.C. Ghosh's Government enjoys the majority at present. In four or five days, the position may be clearer because by that time the

stand of most people in regard to their alignment would have crystallised.

- (2) The Speaker's ruling has made the functioning of the Assembly and thereby all constitutional processes impossible. The question as to what steps should be taken to make such action on the part of a Speaker not possible in the future will have to be considered carefully.

I am accordingly to report under Article 356 (1) of the Constitution that a situation has arisen in which the Government of the State cannot be carried on in accordance with the provisions of the Constitution. I would now request you to take appropriate action under Article 356 of the Constitution.

With regards,

Yours sincerely,  
Dharma Vira

Dr. Zakir Husain  
President of India  
Rashtrapati Bhavan  
New Delhi

## Appendix II

### *Text of the Bihar Governor's Report to the President, dated 26 June 1968*

Bihar Governors Camp  
Patna  
26 June 1968

DO No 141-GB

Dear Sir,

Shri Bhola Paswan Shastri submitted the resignation of his Council of Ministers at 3 15 p.m. on 25 6 68 and was requested by me to continue in office till alternative arrangements were made. In his letter of resignation the Chief Minister advised the dissolution of Assembly and holding of mid term election.

I invited Shri Mahesh Prasad Sinha, leader of the Congress Party (which is numerically the largest group in the Assembly) on 26 6 68 and met him twice. I asked him if he was in a position to form a stable Government. He wanted four days or more time to intimate his decision to which I declined for reasons stated below. He expressed his inability to form a Government.

Shri Bhola Paswan Shastri who had submitted his resignation yesterday has written to me today that he is in a position to form a Government, presumably with the support of defectors from other parties. I cannot accept his claim.

On 25 6 68 the Appropriation Bill was under discussion when the Government resigned and the House has been adjourned *sine die* by the Speaker. Unless the Appropriation Bill is passed by the Assembly before the 30th June 1968, no expenditure from the Consolidated Fund would be possible and working of the

Government will come to stand-still. (Voting on the budget in March 1968 was for a period of three months which expires on 30th June 1968.)

There have been three successive Ministries inducted into office since the general elections held in 1967. Each of the Ministries has been defeated when it faced the Legislative Assembly on the very first occasion, except the Ministry headed by Shri Mahamaya Prasad Sinha, which was defeated on the second occasion when it faced the Assembly.

The Bihar Assembly has a strength of 318 (with one vacancy) members out of whom 85 members have changed parties at least once, some having done so twice, thrice and four times within a period of one year. No party or group is free from erosion.

When my predecessor invited the Leader of the Congress Party, which had the largest following, to form the Government in March 1967 immediately after the general elections, 35 members of the Congress Party submitted a signed memorandum to the Governor expressing their opposition to the formation of Government, the possibility of which their leader was exploring. Out of these 35 members 20 have, later on, defected from the Congress Party and formed the Lok Tantrik Party, of which the present Chief Minister is the leader. The remaining 15 signatories are still members of the Congress Party and according to my information some of them as well as others of Congress Party may desert from their party if and when occasion arises.

Shri Kamakshya Narayan Singh (Raja of Ramgarh), leader of the Janata Party, which claims the strength of 18 members, has Changed his mind thrice in 24 hours by his public statements starting with a letter to me on the 24th instant withdrawing his support from the present Ministry of which he still continues to be a member.

This phenomenon is not confined to Congress Party alone but applies to all parties or groups in the Assembly.

It is my considered view that it is not possible to form a Government which can be stable in any sense; and therefore, I recommend that action may be taken under Article 356 of the Constitution of India urgently so that consequential steps may be taken to enable drawals from the Consolidated Fund before the 1st July 1968.



I recommend that the Assembly should be dissolved forthwith.

Yours sincerely,  
Nityanand Kanungo

Dr. Zakir Husain  
President of India  
Rashtrapati Bhawan  
New Delhi

## Appendix III

### *Text of U.P. Governor's Report to the President, dated 5 November 1973, Recommending Revocation of President's Rule*

Governor  
Uttar Pradesh

Raj Bhavan  
Lucknow  
5 November 1973

My dear respected Rashtrapati,

You had been pleased to assume to yourself all the functions of the Government of the State of Uttar Pradesh, vide Proclamation No. G.S.R. 316(E) dated 13th June 1973 under Article 356 of the Constitution. This was done after considering my report dated 12th June 1973 in which I had intimated to you that the Chief Minister, Shri Kamalapati Tripathi, had submitted his resignation to me in the wake of certain developments, particularly, certain incidents of grave indiscipline on the part of subordinate ranks in some companies of the Pradeshik Armed Constabulary. This resignation was submitted by him in spite of the fact that his leadership of the majority party in the Legislative Assembly (which had the strength of 272 in a House of 426 members—out of which 5 seats were vacant) was virtually unchallenged. He and his colleagues felt, and I had agreed with them, that direct involvement of the Central Government for a short period in the administration of the State would be helpful in safeguarding the security of the State and ensuring the well-being of the people. I had at that time recommended that the Legislative Assembly may for the time being remain in suspended animation so that after the situation in the State had stabilised, it might be possible for the leader of the majority party in the

Legislative Assembly to form a new Government. You were pleased to agree with me in this assessment, and accordingly, the Proclamation provided only for the suspension of the powers of the State Legislature and not for the dissolution of the Legislative Assembly.

2. Since then I have been running the administration of the State Government under your kind supervision. During this time the Pradeshik 'Armed' Constabulary has been reorganised. While recalcitrant elements have been punished, the grievances of the subordinate ranks of the force have by and large been removed, their pay-scales improved and certain other facilities given to them. This has given satisfaction to the men and created confidence among them. The Pradeshik Armed Constabulary will, I am sure, again be a fine force which the Government can rely on in times of need. Steps are also under way to reorganise the Intelligence Department of the Police.

3. During the period of Presidential Rule, public order was well-maintained. There were virtually no cases of communal trouble or of atrocities on Harijans. The crime figures also showed a decline and there was general improvement in the law and order situation in the State. Peaceful conditions obtained in the Universities and other educational institutions.

4. A drive was launched to clean the administration and chop off the dead-wood. A number of public servants were, after careful screening, compulsorily retired from service or reverted to their substantive ranks. In order to revitalise the administration and create confidence among the technical services, promotion prospects in the engineering services and the medical and health services were enlarged. At the same time, financial and administrative delegations have been made to the Heads of Departments.

5. Unfortunately, the four months or so, during which I have had to look after the administration personally with the able assistance provided by my Advisers, have been a period of great stress and strain owing to the shortage of essential commodities—and particularly of power. The State had an acute drought in the beginning, and later, there were heavy floods in some of the areas. These were effectively,

tackled and the people were helped to the extent possible. Prospects of Kharif crop are quite good and the prices of foodgrains have shown a tendency to decline.

6. Shri Kamalapati Tripathi has now intimated to me by his letter dated the 3rd November 1973 (copy annexed), that he is resigning from the leadership of his party and that the election of the new leader shall take place on the 7th November 1973. He also met me in this connection on the 4th November 1973 and I had a detailed discussion with him. He clearly feels that in the light of the overall improvement in the situation brought about under President's rule, the new leader of the majority party should immediately after his election be called upon to shoulder the responsibility of forming the Government. The party position in the State Legislative Assembly, as intimated in my report dated 12th June, 1973, has remained substantially unchanged (the Congress party now has the strength of 271 instead of 272 intimated earlier). In these circumstances, I agree with Shri Tripathi's assessment of the situation and feel confident that the new leader of the majority party should be able to carry the Legislature and the people of the State with him in running the administration.

7. In view of the above, I feel that the purposes for which the provisions of Article 356 of the Constitution were invoked have been fully served and the time has come when the Government of the State can once again be carried on in accordance with the provisions of the Constitution. I recommend accordingly that the Proclamation referred to above may kindly be revoked with effect from 8th November 1973.

With kindest regards,

Yours sincerely,  
Akbar Ali Khan

Shri V.V. Giri  
President of India  
Rashtrapati Bhavan  
New Delhi

## UP Legislature Congress Party

44 Vidhan Bhavan  
Lucknow  
3 November 1973

My dear Shri Rajyapalji

You may recall that on 12th June, 1973 I wrote to you that you may kindly request the President to exercise his powers under Article 356 of the Constitution and take over the administration of the State for a temporary period. I pointed out even then that the State Legislature had recently concluded its budget session, that our party commanded a comfortable majority in the Legislative Assembly and it should not, therefore be difficult for the Government to be carried on in accordance with the Constitution. I had, however, recommended that on a realistic assessment of the overall situation, a direct *though temporary*, involvement of the Central Government was necessary and that the sharp psychological change which such direct Central involvement will bring about will help in the speedy cleansing of the remaining cobwebs of indiscipline. You and the Central Government accepted the advice of my Government.

Our party has been constantly reviewing the developments that have taken place in the State and has noted the qualitative changes in the situation brought about under President's rule. In the circumstances now prevailing in the State, Government with direct responsibility to the State Legislature can, in our view, be restored. You had agreed with our earlier assessment and on your recommendation the Legislative Assembly was only suspended. On behalf of our party I should like to inform you that we would be fully prepared to form a Government. I would, therefore, request you to initiate the steps necessary for the revocation of the Proclamation.

I myself have decided to resign as leader of the Congress Legislature Party. A meeting of the Congress Legislature Party is being held on November 7th, 1973 to elect a new

leader. I hope you will invite the new leader of the Congress Party to form the Government.

Yours sincerely  
Kamlapati Tripathi

Shri Akbar Ali Khan  
Governor  
Uttar Pradesh  
Lucknow

## Appendix IV

### *Text of Tamil Nadu Governor's Report to the President, dated 29 January 1976*

Governor of  
Tamil Nadu

Raj Bhavan  
Madras  
29 January 1976

No GTN/SPL-1/76

Respected President,

The developments in the State have given me cause for deep concern for quite some time. The present DMK Ministry, which started its term of office in March 1971, has, by series of acts of mal administration, corruption and misuse of power for achieving partisan ends, set at naught all canons of justice and equity which are the hallmark of a democratic administration. Although I have at times discussed with you as also with the Prime Minister and Home Minister various aspects of the situation in the State, I have refrained from referring to these matters in any formal report firstly in the hope that the Ministry might improve its style of functioning and things might take a turn for the better and secondly, my action might be misconstrued as undue interference in the functioning of a duly elected Ministry. Affairs in the State, more particularly during the past few months have steadily worsened. A stage has now reached where I find that I can no longer be a silent spectator, without causing serious detriment to the interests of good Government and the interests of the people of the State.

2 The DMK Ministry had hardly been in power for a year after the last General Election when serious complaints were

received about its failings and by and by a process of disillusionment set in among the general public. Reports about various grave acts of omission and commission on the part of the Government have also been received during the recent past. Some of these complaints relate to the Chief Minister, other Ministers and important functionaries of DMK party and their misuse of Government machinery. I, in my own way, have been trying to assess authenticity or otherwise with regard to these allegations and have reached the conclusion that quite a few of them are serious and not without substance. I would like to mention below only a few of them:

(i) *Veeranam Project:*

A number of major contracts are alleged to have been given only to certain contractors who are favoured by DMK leadership for services rendered by them in kind and money. M/s. Satyanarayana Bros and East Coast Construction Co. are among such favoured ones in this regard. A contract for Veeranam Project costing about Rs. 22 crores was awarded to M/s. Satyanarayana Bros without verification of the capacity and financial viability of the firm. The tender for the firm was tentatively accepted in May, 1970 before even the feasibility report was available. The manner in which this contract was entered into and the amount of advance given to the contractor smacks of favouritism and other malpractices.

(ii) *Misuse of funds for drought relief:*

- (a) During the drought, tenders were invited for a number of relief works. It was brought to my notice that after the works had been in progress, 25% extra payment was sanctioned to the contractors over and above the tendered amount in some districts on the pretext of the non-availability of labour. On the other hand, in most of the cases labour was available and continued to be paid what it was receiving earlier.
- (b) The amount sanctioned during 1973 towards



drought relief in North Arcot District was not utilised properly. It was alleged that there had been misuse and diversification of funds on a large scale and it had been adversely commented upon by A G, Tamil Nadu.

(iii) *Grave malpractices in the sale of paddy*

In mid 1974 when there was need for paddy in the State, the ban on the movement of rice from Tanjore District to other parts of the State was lifted. This step was taken ostensibly to bring down the price of rice elsewhere in the State but it only resulted in the transport of rice from Tanjore District to places outside the State. Several DMK politicians were involved in the transaction and after a substantial quantity of accumulated stocks in the Tanjore District had been moved out, these restrictions were reimposed within a week. Huge sums of money are understood to have been paid into the coffers of the party and to the individual DMK men.

(iv) *Grave allegations have been made about admission to all the medical colleges. The DMK Government have centralised the powers relating to admissions to these colleges and have evolved a modus operandi whereby the admission of individual students favoured by them could be ensured. It was alleged that unless amount ranging from Rs 10,000-20,000 was paid per individual, no admission was granted. I had to personally intervene to ensure that atleast the interests of some of the top students were safeguarded.*

(v) *The work relating to aerial spray of pesticides was entrusted to an Aviation Association of Bombay. The contract in this regard was executed with Ponni Enterprises as the agent of the Association. This company has been getting large commissions from the Aviation Association for aerial spraying in Tamil Nadu State and it is alleged that a major portion of this commission has been paid to some Ministers.*

3. Other features of mal-administration under DMK Ministry can be broadly categorised as below:

- (a) Administrative and financial improprieties committed by the Government,
- (b) flagrant misuse of authority and high-handedness to further party interests and
- (c) deliberate attempts to thwart the basic objectives of a national policy, disregard of the instructions of the Central Government in relation to emergency and misuse of emergency powers.

The ruling party has acquired a very unsavoury reputation of allowing widespread corruption and indulging in blatant misuse of authority to further party interests. Here again, I would mention some of the cases by way of illustration:—

*Administrative and financial improprieties:*

- (i) The Thermal Power Station at Semayanthur was sold to Meenakshi Enterprises for Rs. 59.16 lakhs which was considerably lower than the market price. This is proved by the fact that this firm immediately sold a part of the generator to different parties and made a profit of Rs. 9.50 lakhs. Even after this sale, the firm has still unsold parts of the Thermal Power Station worth Rs. 14.25 lakhs. The whole transaction is believed to have been effected after acceptance of some money for DMK party coffers.
- (ii) An amount of Rs. 16 lakhs allotted to Tamil Nadu under the Fourth Plan to be spent on propaganda for removal of untouchability was diverted to Information and Publicity Department which spent it for other purposes.
- (iii) Despite the fact that the ways and means position of the State Government is very difficult, Treasury is being denuded for financing unproductive projects. A number of cases could be cited in this regard.

*Highhandedness to further party interests:*

- (i) It is alleged that on account of the administrative

interference, Shri Kattur Gopal of the Dravidian Labour Progressive Federation, which is the labour front of the DMK party was installed as President of the 10,000-strong Simpson Group Workers and Staff Union, displacing Gurumurthi of INTUC. This action sparked off unprecedented trouble in the Simpson Group of factories

- (ii) The Government machinery of the State has been liberally employed for collection of funds for the party
- (iii) There are numerous instances of interference and misuse of Government machinery including the use of police force for the purpose of furtherance of party interests
- (iv) The treasurer of ADMK was arrested at Chingleput on May 18, 1975 and beaten up by DMK partymen. A case was foisted on him and 23 others of ADMK. The Chief Judicial Magistrate, Chingleput while acquitting the accused, passed strictures on the police for bringing the victims to the court as accused
- (v) A renowned Christian Missionary institution at Vellore was subjected to coercion through the police and official machinery due to personal vendetta. In this and other instances, personal vendetta has been the motivating force in shaping Public policies

#### *Misuse of emergency powers*

4 The attitude of the Government to the Proclamation of Emergency has been one of lack of cooperation, if not total disregard of the instructions of the Central Government. Immediately after the Proclamation of Emergency, the State Government issued its own censorship orders under rule 48 of DISR. When the Central Government issued detailed basic censorship order, the State Government officials did not faithfully carry out censoring work according to the guidelines issued by the Centre. This resulted in the free circulation of lot of literature including newspapers containing exhortations and public speeches highly critical of emergency measures. These publications found their way to the neighbouring States also and complaints were received from Kerala and Pondicherry

about the difficulties faced by them by the flow of such literature from Tamil Nadu.

5. The half-hearted attitude on the part of the Government is also indicated from the fact that very few activists of the banned organisations have been apprehended and inadequate steps taken to put down circulation of clandestine literature.

6. Apart from the laxity in the implementation of emergency measures, there have been glaring instances of misuse of power. For instance, the powers vested in the State Government under rule 47 (1) of the Defence and Internal Security of India Rules, 1971 have been misused to muzzle news media belonging to opposition parties.

7. Under the cover of demand for State autonomy, DMK leaders including the Chief Minister and other Ministers have from time to time held out veiled threats of secession in case the desired autonomy was not granted. Sinister comparisons have been made in their public utterances with the events in Bangla Desh and the fate of Mujibur Rehman. Some of the DMK leaders have recently given a threat of revolution in Tamil Nadu if the life of the State Assembly is not extended. In the Fifth State Conference of DMK held from 25 to 28th December, 1973 at Coimbatore, it was underlined that if the party's demand for State autonomy was not conceded, the DMK would have no alternative but to revive its earlier demand for 'separate Tamil Nadu'. The sustained campaign involving propaganda, agitational approach and indirect encouragement to climate of violence on the part of the DMK party/Government to achieve the above purpose runs counter to the concept of national integration. Unless checked in time, this will have disastrous consequences.

8. The facts and circumstances set out in the foregoing paragraphs will clearly show that a Ministry with this record, if allowed to continue in office longer, will seriously jeopardise democratic norms and democratic functioning. The several administrative and financial improprieties mentioned above, the constant interference with official machinery and amassing of wealth by the DMK leaders and cadres on an extensive scale, the half-hearted, if not hostile, attitude towards carrying out instructions of the Central Government to meet the Emergency,

have all created a feeling that the Ministry stands only for the interests of the DMK Party and its followers to the exclusion of the other sections of the population. A stage has reached when the confidence of the people in the ability of the Government to provide a clean, impartial and efficient administration has been completely eroded.

9 I would, in all these circumstances report that a situation has arisen in which the Government of the State cannot be carried on in accordance with the provisions of the Constitution and recommend that you may be pleased to take necessary action under Article 356 of the Constitution for the administration of the State. I would also recommend that the State Legislative Assembly be forthwith dissolved.

10 It is also my considered view that in the larger Public interest a High Powered Commission should be appointed to inquire into the several serious allegations against the Ministry and the Ministers involved. Such a step alone will restore public confidence.

Yours sincerely,  
K. K. Shah

Shri Fakhruddin Ali Ahmed  
President of India  
New Delhi

## Appendix V

### *Text of Presidential Proclamation*

#### Ministry of Home Affairs

#### NOTIFICATION

New Delhi, the 31st January 1976

G.S.R. 55 (E)—The following Proclamation by the President is published for general information:

Whereas, I, Fakhruddin Ali Ahmed, President of India, have received a report from the Governor of the State of Tamil Nadu and after considering the report and other information received by me, I am satisfied that a situation has arisen in which the Government of that State cannot be carried on in accordance with the provisions of the Constitution of India (hereinafter referred to as "the Constitution");

Now, therefore, in exercise of the powers conferred by Article 356 of the Constitution and of all other powers enabling me in that behalf, I hereby proclaim that I:

- (a) assume to myself as President of India all functions of the Government of the said State and all powers vested in or exercisable by the Governor of that State;
- (b) declare that the powers of the Legislature of the said State shall be exercisable by or under the authority of Parliament; and
- (c) make the following incidental and consequential provisions which appear to me to be necessary or

desirable for giving effect to the objects of this Proclamation, namely:

- (i) in the exercise of the functions and powers assumed to myself by virtue of Clause (a) of this Proclamation as aforesaid, it shall be lawful for me as President of India to act to such extent as I think fit through the Governor of the said State;
- (ii) the operation of the following provisions of the Constitution in relation to that State is hereby suspended, namely:
  - so much of the proviso to article 3 as relates to the reference by the President to the Legislature of the State;
  - so much of Clause (2) of Article 151 as relates to the laying before the Legislature of the State of the report submitted to the Governor by the Comptroller and Auditor-General of India;
  - articles 163 and 164;
  - Clause (3) of Article 166;
  - Article 167;
  - so much of Clause (1) of Article 169 as relates to the passing of a resolution by the Legislative Assembly of a State;
  - Clause (1) and Sub-Clause (a) of Clause (2) of Article 174;
  - Articles 175 to 178 (both inclusive);
  - Clauses (b) and (c) of Article 179 and the first proviso to that Article;
  - Articles 180, 181 and 182, Clause (c) of Article 183 and the proviso thereto;
  - Article 185;
  - so much of Article 186 as relates to the salaries and allowances of the Deputy Speaker of the Legislative Assembly;
  - so much of Article 188 as relates to a member of the Legislative Assembly;
  - Articles 189, 193 and 194;
  - so much of Article 195 as relates to the salaries and allowances of Members of the Legislative

Assembly;  
Articles 196 to 198 (both inclusive);  
Clauses (3) and (4) of Article 199;  
so much of Clause (3) of Article 202 as relates to the salaries and allowances of the Deputy Speaker of the Legislative Assembly;  
Articles 208 to 211 (both inclusive);  
the proviso to Clause (1) and the proviso to Clause (3) of Article 213; and  
so much of Clause (2) of Article 323 as relates to the laying of the report with a memorandum before the Legislature of the State;

- (iii) the Legislative Assembly of the said State is hereby dissolved;
- (iv) any reference in the Constitution to the Governor shall in relation to the said State be construed as a reference to the President, and any reference therein to the Legislature of the State or the Houses thereof shall in so far as it relates to the functions and powers thereof, be construed, unless the context otherwise requires, as a reference to Parliament, and, in particular, references in Article 213 to the Governor and to the Legislature of the State or the Houses thereof, shall be construed as references to the President and to Parliament or to the Houses thereof respectively:

Provided that nothing herein shall affect the provisions of Article 153, Articles 155 to 159 (both inclusive), Article 299 and Article 361 and paragraphs 1 to 4 (both inclusive) of the Second Schedule or prevent the President from acting under Sub-Clause (i) of this Clause to such extent as he thinks fit through the Governor of the said State:

- (v) any reference in the Constitution to Acts or laws of or made by the Legislature of the State shall be construed as including a reference to Acts or laws made in exercise of the powers of the Legislature of the State, by Parliament by



virtue of this Proclamation, or by the President or other authority referred to in sub-clause (a) of Clause (1) of Article 357 of the Constitution and the Madras General Clauses Act, 1891 (Madras Act 1 of 1891) as in force in the State of Tamil Nadu, and so much of the General Clauses Act, 1897 (10 of 1897), as applies to State laws, shall have effect in relation to any such Act or law as if it were an Act of the Legislature of the State.

Fakhruddin Ali Ahmed  
President

New Delhi  
31 January 1976

[No. V/11013/2/TN/76-S&P (DV)]  
S.L. Khurana, Secy.

New Delhi  
31 January 1976

ORDER

New Delhi, the 31st January 1976

G.S.R. 56 (E)—The following Order by the President is published for general information:

In pursuance of Sub-Clause (i) of Clause (c) of the Proclamation issued on this the 31st day of January, 1976 by me under Article 356 of the Constitution of India, I hereby direct that all the functions of the Government of the State of Tamil Nadu and all the powers vested in or exercisable by the Governor of that State under the Constitution or under any law in force in that State, which have been assumed by the

President by virtue of Clause (a) of the said Proclamation, shall, subject to the superintendence, direction and control of the President, be exercisable also by the Governor of the said State.

Fakhruddin Ali Ahmed  
President

New Delhi  
31 January 1976

S.L. Khurana, Secy.

New Delhi  
31 January 1976

## Appendix VI

### *Orissa: December 1976*

The latest State to have come under President's rule has been Orissa, this being its fourth turn and the thirty-seventh in the country since the commencement of the Constitution. It, however, turned out to be a brief 'Delhi rule',<sup>1</sup> lasting from 16 to 29 December 1976. The 147-strong Orissa Legislative Assembly had 84 Congress members who, in mid-1973, had elected Nandini Satpathy as their leader (and thus Chief Minister). Nandini Satpathy commanded the allegiance of the majority but she appears to have fallen out with the Central level party leadership for sometime, this being reasonably confirmed at the Gauhati session of the Congress held in November 1976. As generally happens in one-party dominant political systems, the Congress party is faction-ridden nearly everywhere, and Orissa was no exception. But the dissident group, having sensed New Delhi's displeasure with Satpathy, intensified its agitation against the Chief Minister and began demanding a change in State level political leadership. The scene of battle shifted from Bhubaneswar to New Delhi in December. The Chief Minister visited New Delhi on 12 December and the State Governor had gone a day earlier for consultations with the Central leaders. The charges apparently levelled by her political colleagues were that she was becoming a faction leader and was, moreover, even on a 'confrontation course' with the Centre. Anyway, no Chief Minister may hope, in the current situation, to politically survive if he or she incurs the Centre's displeasure. And Satpathy did become a political

<sup>1</sup>*The Times of India*, 17 December 1976.

*persona non grata* with the Central leadership, which ultimately asked her to resign or face dismissal. She resigned on 16 December 1976 'but reportedly after a period of delay which puzzled the (Congress) High Command'.<sup>2</sup> True to the ritual, the Governor sent his usual report to the President recommending President's rule in Orissa but keeping the State Legislature in 'suspended animation'. Immediately, Orissa was placed under President's rule, and a senior civil servant who had earlier served as Orissa's chief secretary was sent from Delhi as adviser. Advisers are normally appointed only when a State is proposed to be kept under President's rule for a longer period. But the popular Ministry headed by Binayak Acharya of the Congress was installed in office on 29 December 1976. It is to be noted that Nandini Satpathy did not formally face a defeat in the State Legislature—nor an adverse vote of the State Congress legislators; she had to bow out of power on grounds of Central leadership's wishes.

The Congress Party defended this change saying that Nandini Satpathy had become a faction leader which had the effect of slowing down implementation of developmental programme in the State, and in such a situation, the Prime Minister, who was answerable to the people, had necessarily to intervene so that they did not suffer.<sup>3</sup> Earlier, some Orissa MPs voiced the same feeling, observing: 'The Prime Minister is an institution in herself and is the symbol of unity of the country. Nobody should be allowed to defy the authority of the Centre.'<sup>4</sup> The concept of Chief Minister as Prime Minister's subordinate found its clearest enunciation in the Congress General Secretary A.R. Antulay's observation on the occasion that the relationship between the national leader and followers should be direct and all others placed by the national leader 'to discharge certain duties like Chief Ministership can expect only cooperation of colleagues and other Congressmen but not loyalty. Loyalty is not divisible. . . . If this is not done, if loyalty is extended to State leaders or through State leaders to the national leader, the

<sup>2</sup>The *Hindustan Times*, 18 December 1976.

<sup>3</sup>The *Hindustan Times*, 30 December 1976.

<sup>4</sup>The *Hindustan Times*, 17 December 1976.

Congress would again get ridden with State bossism....”

Like Bahuguna in U.P., Nandini Satpathy continued commanding the support of a majority in the Legislature but had to resign leading to President's rule in the State at the behest of a controlling group outside the State. Not only did the Constitutional provision for President's rule become yet another weapon in the ruling Congress Party's armoury but also a theory of 'subservient' State level chief executive came to be evolved, thus further enlarging the scope of Article 356 of the Constitution. This marks an attempt at evolving an 'inclusive presidentialism' in the country.

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**COMPARATIVE  
CONSTITUTIONAL LAW:  
CASES AND MATERIALS**